

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

TRANSMITTAL SLIP

TO: <i>1)</i> John Blake		
ROOM NO.	BUILDING	
REMARKS:		
<i>Registry - file w/ material on Assassination Report</i>		
Attached for your information are extracts from the <u>Congressional Record</u> covering the executive session of the Senate yesterday on the "assassination report." We have underlined some of the more important statements.		
<i>CC's Kufgadm/c - 11/26/75</i>		
FROM: OLC		
ROOM NO.	BUILDING	EXTENSION

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

November 20, 1975

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

S 20623

stimulate purchase of potables in returnable containers.

The council's action in Montgomery is, of course, only a skirmish won in a war in which the bottling and beverage industries have shown no inclination to surrender. But, in conjunction with other recent engagements, it is progress.

The Environmental Protection Agency last week took the first procedural step to require a 5-cent deposit on all beverage containers sold under federal auspices, which would have an obvious impact on the Washington area. And the Maryland Court of Appeals in March upheld an ordinance passed by the town of Bowie in 1971, requiring the mandatory deposit.

There appears to be developing a wider feeling that disposable containers represent a ridiculous wastefulness and a lack of aesthetic concern for our own backyards. The arguments of the bottlers and soft-drink purveyors do not hold water, and they would do well now to get cracking on the the conversion back to returnables instead of trying to impede the effort by rhetoric and litigation.

No serious argument has been made that elimination of throwaways would involve no difficulties. But the point is that these would be temporary and worth the economic dividend in conservation. One recent study, by the Maryland Governor's Council of Economic Advisers, said that weaning ourselves from disposables would create 1,500 jobs in the state, would produce \$1.1 million in new tax revenue, and would reduce highway litter in the neighborhood of 30 per cent.

Throwaways are a problem, as we have said before, that is not so intractable as many of our urban knots. We trust that Mr. Gleason will see it that way, this time around. And in a time of scarce household money, even in Montgomery, the savings to the consumer of drinks in returnables over throwaways amounts to 60 per cent.

CULTURAL NOTE

This tidbit is offered to any sociologist or urban anthropologist who has been too busy filling out forms for foundation grants to get around to field work. It means something, we think, perhaps something of coruscating insight.

A proud municipality in our area sponsored a Halloween dance for its "older teenagers" at the community center. The town will be left anonymous, to spare it possible embarrassment, but also because we suspect its experience was duplicated in other suburbs. The following description comes from the town newsletter.

"Despite the presence of some 10 chaperons and 3 policemen, the men's toilet was stopped up with paper and the room flooded, and empty beer cans, bottles and cartons were strewn over the parking lot area. Considering that an estimated 300 young people were present during the evening, except for the problems noted above and a messed up gym floor, the dance was characterized to be about as orderly as expected in these days and times."

The comingling of tones in this brief dispatch—of fatalism, ennui, frustration, and a sense that the town may have gotten off with lesser ravages than anticipated—should speak eloquently to the trained investigator of current social phenomena.

NOTE

In the RECORD of November 11, 1975, the first paragraph of Mr. BAYH's remarks on page S10668 are incorrectly set forth. In the permanent, RECORD the paragraph will be printed as follows:

EXTENSION OF REVENUE SHARING

Mr. BAYH. Mr. President, I wish to express my concern about the need for early action to extend the revenue sharing program. I believe that most Members of Congress and concerned citizens agree that the revenue sharing program has been successful, and it is my perception that the program will be reenacted with little opposition. The questions are when Congress will act and how much money will be allocated to the program.

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. GLENN). The period for the transaction of routine morning business is closed.

CLOSED SESSION

The PRESIDING OFFICER (Mr. GLENN). Under the previous order, the hour of 9 a.m. having arrived, the Senate will go into closed session, not to extend beyond 1 p.m.

The Chair now directs the Sergeant at Arms to clear the galleries, close the doors of the Chamber, and exclude all those not sworn to secrecy.

(At 9 a.m. the doors of the Chamber were closed.)

PROCEEDINGS IN CLOSED SESSION

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GLENN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I am about to make a unanimous-consent request, and I do so with some fear and trepidation because of the numbers involved, and that number in relation to the closed session which the Senate will now undertake.

I think it is a very bad precedent to have more than two people here at any time from outside the Senate, but on this occasion, in view of the situation which has developed, I ask unanimous consent—and this is not to be considered a precedent—that the following members of the staff of the Senate Select Committee on Intelligence be accorded full privileges for the period of this closed door session of the Senate.

Before I list their names, again, they will have to be sworn in by the Sergeant at Arms and pass that test:

William G. Miller, Frederick A. O. Schwarz, Jr., Curtis Smothers, Charles Kirbow, David Aaron, Joseph Di-Genova, Richard Inderfurth, Robert Kelley, Charles Lombard, Michael Madigan, Elliot Maxwell, Walter Ricks, Burton Wides.

Mr. ALLEN. Reserving the right to object—and I shall not object—will the Senate be given an opportunity to ex-

press itself during this session on the advisability of releasing the names of CIA agents who may have been involved in assassination plots?

Mr. MANSFIELD. The leadership would never think of foreclosing any right, privilege, or prerogative of the Senate, and the answer would be in the affirmative.

Mr. ALLEN. I thank the Chair.

The PRESIDING OFFICER. Is there further objection?

Mr. ALLEN. I thank the distinguished majority leader.

Mr. GRIFFIN. Mr. President, on the point that the Senator from Alabama has just raised, when will it be possible to have a discussion on that particular question, I ask the majority leader?

Mr. MANSFIELD. Under the agreement reached, the session cannot go beyond 1 o'clock.

Mr. GRIFFIN. Then I wonder if there could be a period of at least 15 minutes, something at the beginning, to lay out some basic legal questions about this that Senators could then be mulling over in their mind as they are listening to the rest of the presentation and then, perhaps, some further discussion at the end?

Mr. MANSFIELD. I would think so, and I am sure that the chairman of the committee and the ranking Republican member of the committee would be willing to give that consideration.

Mr. TOWER. Will the Senator yield?

Mr. CHURCH. May I just say, in the interest of orderly presentation, the chairman and the vice chairman had hoped to present the report, during which these questions to which the Senator from Michigan refers will be alluded to, because they have been carefully considered by the committee, and then after that, of course, any discussion concerning the question that the Senator raises would be entirely appropriate.

Mr. GRIFFIN. The Senator from Michigan has some questions that he would not just expect the distinguished chairman to allude to, but to address himself to.

Mr. CHURCH. There will be plenty of opportunity to do that.

Mr. TOWER. Will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. TOWER. The way that we agreed on it yesterday is that the time should be equally divided between the Senator from Idaho and myself.

Mr. MANSFIELD. That is right.

Mr. TOWER. And then on a rotational basis we would yield to people on our side in turn.

The presentation by the chairman and the vice chairman should not take an extraordinarily long time and each member of the committee, I think, ought to express himself briefly and I think there will be adequate time for colloquies and questions on this matter on the part of the Members of the Senate that wish to participate.

Mr. GRIFFIN. Including—

Mr. PASTORE. Reserving the right to object—

Mr. SPARKMAN. Just a question.

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

Mr. PASTORE. Reserving the right to object—

Mr. ROBERT C. BYRD. There is a request pending.

Mr. MANSFIELD. I yield to the Senator.

Mr. PASTORE. I was wondering, could we not set a time limit insofar as the presentation, because none of us know here what is going to develop.

The PRESIDING OFFICER. Could the Senator speak up, please? We do not have a loud speaker system.

Mr. PASTORE. If we go from 9 until 1, I think what we ought to do is set aside an hour or an hour and a half in the beginning and then we can resume the talk about the legalities involved and the procedures to be followed because, after all, here we are in the dark. We do not know what is going to develop until we hear it and I think that is what we ought to do. We ought to set aside an hour and a half or an hour of the first 5 hours.

What is it, 5 hours?

Mr. MANSFIELD. Four hours.

Mr. PASTORE. Four hours.

Then we take it from there, and then we can have 15 minutes or 20 minutes.

Mr. MANSFIELD. Make it the last hour to give them a chance to explain.

Mr. PASTORE. That is right.

Mr. SPARKMAN. Will the leader yield for a question?

Mr. MANSFIELD. Yes; and then to the Senator from North Dakota.

Mr. SPARKMAN. I merely want to ask, the leader read off quite a long list of names.

Mr. MANSFIELD. Too long a list.

Mr. SPARKMAN. Are they a part of the Senate?

Mr. MANSFIELD. They are not a part of the Senate. They are attachés attached to the Select Committee.

Mr. SPARKMAN. They are a part of the committee?

Mr. MANSFIELD. Yes.

Mr. SPARKMAN. I thank the Senator. Mr. YOUNG. My question, along the same line, I can see where some staff members are necessary, but I cannot understand why and I would like an explanation of why so many. There will probably be more staff members than Senators.

Mr. MANSFIELD. Will the Senator yield?

There are 11 members on the committee and it allows them each an assistant, plus the Democratic counsel and the Republican counsel. Just like the umpire made a decision based on his judgment in St. Louis last Sunday with which some people found fault. The leadership has done the best it could and it has reduced it from about 25 down to 13.

Mr. YOUNG. I am not going to object, but I think there will be bigger press coverage this way than if we let the press in.

Mr. MANSFIELD. I agree.

Mr. BAKER. I might say, for the reassurance of our colleagues, there is another reason to want them here. That is in the interest of security. We broke the staff down into compartments. One compartment did not know what the other compartment was working on. So there is no staff member, except the majority

and minority counsel, who have a general overview, and they do not in detail. This was to preserve the secrecy of the proceedings. It seems to me we need at least this many in order to have a full presentation. While I agree with the majority leader that it is unfortunate, I believe it is essential.

Mr. CHILES. Now they will have it all put together for them?

Mr. BAKER. This is put together in a printed book that will be placed on the desks. Members of the committee in a drafting session have approved the draft. But in order to elaborate or extend on any point in there, we will need representatives from the several drafting groups.

Mr. CHILES. Will they all be here at one time?

Mr. BAKER. Eleven of them.

Mr. CHURCH. May I say in furtherance of what the distinguished Senator said—

Mr. PASTORE. May we take our seats so we can talk?

Mr. SCHWEIKER. Let us turn the microphones on.

Mr. CHURCH. This has been an extraordinarily diligent committee. Members have, for 6 months, sat through endless sessions in the most intensive investigation of the assassination issue. I have never served on a committee where there was such fidelity of attendance on the part of the membership. These committee members should not only have the right, but have expressed the desire, to participate in this presentation. Because of the breadth of the material covered, each one has assumed a responsibility for a particular chapter if highly technical questions arise. For that reason, the committee members feel the need to have their own staff assistant sitting with them.

Mr. MANSFIELD. Time is fleeting. Could we get a judgment?

Mr. CHILES. Can I ask one more question? I can understand the explanation of the need to have the staff members for the answering of questions. I wonder if at some stage when the questions are answered so to speak, if we get to a point where we want some debate, could they then be excused? It would seem to me that there might well be some time that we would just want to have the Senate here if we were going to have a debate.

Mr. MANSFIELD. The answer, I would assume, would be in the affirmative, or at least that would be my opinion.

Mr. TOWER. I think any Senator would be within his rights in trying to promulgate a consent request to exclude staff.

Mr. CHURCH. I think in that situation the chief counsel, the Democratic and Republican counsel for the committee, ought to be allowed to remain.

Mr. STENNIS. Can the Senator speak a little louder so we can hear?

The PRESIDING OFFICER. If we might all keep that in mind, please do so. I am having trouble hearing up here. We do not have a loudspeaker system. If, during this discussion, we can all speak up, we would all appreciate it.

Mr. MANSFIELD. You are doing great.

Mr. CHURCH. Senator CHILES has

suggested that, at some point in the proceedings this morning, if the Senate desired to engage in debate, these special assistants for the members of the committee might be dismissed. I do not object to that, but I think, in any case, the chief counsel for the Democratic side and deputy counsel for the Republican side should remain.

Mr. SYMINGTON. Will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. SYMINGTON. It is my understanding that the committee felt the report should be published. Is that correct?

Mr. CHURCH. Yes. The committee so voted and then reconfirmed its vote following receipt of a Presidential letter asking that the report remain concealed.

Mr. SYMINGTON. Was that decision by the committee unanimous?

Mr. CHURCH. That decision was taken without a dissenting vote. There was one abstention.

Mr. SYMINGTON. That being true, I hope we do not chase windmills. It is certainly my intention, if the committee works this many months, speaking personally for myself, whatever the committee thinks should be done with this report I am going to be for, and I hold myself under no obligation not to be for.

Mr. CHURCH. I thank the Senator very much.

Mr. MANSFIELD. Mr. President, in view of the fact that 15 minutes have elapsed under the time schedule, could the Chair at this time act on my request that these additional staff members be allowed?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, reluctantly, because if the subject is this complex that we have to have this number of staff people on the floor I do not know how a person like myself can understand it, I ask unanimous—I will not object. Go ahead.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that paragraph numbered 4 of rule 36, page 55 of the Senate Manual, be printed in the Record at this point.

There being no objection, the paragraph was ordered to be printed in the Record, as follows:

4. Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer, to dismissal from the service of the Senate, and to punishment for contempt.

Mr. MANSFIELD. May I emphasize the fact that this is not to be considered a precedent, the idea of having such huge staff numbers, comparatively speaking, in a closed session.

Now the time is equally divided between the chairman and the vice chairman of the committee.

Mr. TOWER. Mr. President, I ask unanimous consent that the time on the presentation of the select committee report be equally divided between the Senator from Idaho and the Senator from Texas.

The PRESIDING OFFICER: The committee to name in its report those officials who were responsible for the assassination plots is beyond serious doubt.

Mr. CHURCH. Mr. President, I believe the Senator's request is representative of the bipartisan spirit which has guided the committee from its origin.

Mr. President, I reserve to myself such time as this initial presentation may require.

Mr. MUSKIE. I wonder if it would not be helpful for the Senator to speak from the well, facing the Senate. We could all hear him better.

Mr. CHURCH. May I inquire of the Chair if those assistants whose presence has been requested might enter the Chamber and assume their places?

[The Vice President assumed the Chair at this point.]

Mr. CHURCH. In the summer of this year, the Select Committee on Intelligence took up the investigation of U.S. involvements in alleged assassination plots against foreign leaders, continuing the task begun by the Rockefeller Commission.

The select committee asked for this closed session today to describe our findings and conclusions to our colleagues before making this interim report available to the American people later this afternoon.

We will turn to the contents of the reports in a moment, but, first, I would like to express my gratitude to Senator Tower, whose constant attention to his responsibilities as vice chairman has been of invaluable assistance to the committee. And to all other members of the committee who have worked so hard. The same expression of appreciation has been earned by members of the staff, in connection with this report, whose names I ask unanimous consent to have printed at this point in the Record.

There being no objection, the names of staff members were ordered to be printed in the Record, as follows:

William G. Miller, Frederick A. O. Schwarz, Jr., Curtis Smothers, Charles Kirbow, David Aaron, Frederick Baron, David Bushong, Elizabeth Culbreth, Rhett Dawson.

Joseph Dennin, Joseph DiGenova, Richard Inderfurth, Loch Johnson, Robert Kelley, Charles Lombard, Michael Madigan, Elliot Maxwell.

Paul Michel, Andrew Rostal, Gordon Rhea, Walter Ricks, Patrick Shea, Jack Smith, Greg Trevorton, Burton Wides.

Mr. CHURCH. Never have I known a group of harder working men and women.

This committee has heard over 100 witnesses. It has studied thousands of documents and amassed a record of sworn testimony almost 10,000 pages long. We have spent months drafting and redrafting this report to make sure the evidence was stated fairly and completely. Meeting first in a subcommittee composed of Senator Tower, Senator HART of Colorado, and myself, and then in the full committee, our descriptions of the assassination plots are all carefully documented, and we have done our utmost to meet the requirements of Senate Resolution 21 to determine the full facts about the matters we investigated.

I am proud to say that the committee adopted this report by unanimous vote.

not thought possible when we first undertook the investigation.

The committee also decided to reconfirm its earlier decision last summer to make the report public. This vote was also unanimous, with one abstention. Our reasons for feeling so strongly about the right of the people to have access to this historic document are set forth in summary on page 2 of the report.

We believe the public is entitled to know what the instrumentalities of their Government have done. We believe that our recommendations can be judged only in the light of the factual record. We believe the truth about the assassination charges should be told because democracy depends upon an informed electorate. Truth is the very anchor of our democracy.

We wrestled long and hard with the contention that the facts disclosed in this report should be kept secret since they are embarrassing to the United States.

We concluded that despite any temporary injury to our national reputation, foreign peoples will, upon sober reflection, respect the United States more for keeping faith with its democratic ideals than they will condemn us for the misconduct revealed. We doubt that any other country would have the courage to make such a disclosure, and I personally believe this to be the unique strength of the American Republic.

Our decision to make the report public was reinforced by the fact that portions of the story had already been told. Innuendo and misleading piecemeal disclosures are unfair to the individuals involved; nor are they a responsible way to lay the groundwork for informed public policy judgments. In short, the rumors and allegations about the assassination plots must be put to rest. Any effort to keep the truth from the American public could only have the effect of increasing the corrosive cynicism about Government, which is such a threat to our society today.

Also without dissent, the committee agreed upon clear criteria for determining which individuals should be identified by their true names in the report.

We were exceedingly careful. We asked the administration and the CIA to read the report for the purpose of commenting on this particular question. After lengthy discussion and application of the committee's standards, we agreed to limit reference for more than one-half of the names requested to be deleted by the administration to a title or, in some cases, a pseudonym. However, some public officials and some of the persons whom the Agency used in assassination efforts, including certain underworld figures, were so central to the report that we concluded their true identities should be made known.

James Madison recognized the right of freely examining public characters and free communication thereon as the only effective guardian of every other right. And, as the Supreme Court stated:

The power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It comprehends the probes into departments of the Federal Government to expose corruption, inefficiency or waste.

committee to name in its report those officials who were responsible for the assassination plots is beyond serious doubt.

The only time this right was challenged, as it was in an 11th hour attempt to exclude a certain name from the report, the right of the committee to include that name was strongly upheld by the Federal district court.

Earlier this week, the U.S. district court had occasion to review whether the inclusion of the name of a certain former official in the report violated any of his constitutional rights. Judge Gerhard Gesell found, in his opinion that the only right even conceivably at issue was the right of privacy. He then concluded, after having heard full argument in camera in which the CIA and its general counsel were represented, and after taking public arguments in open session, that—

A former government official has no right of privacy vis-a-vis the Congress where his official conduct is under review.

The court decided further—

This is not, as the Court views it, a case of exposure for the sake of exposure alone.

The court ruled in this case that "the public interest greatly outweighs any private interest of the plaintiff." The court found the standard the committee applied in determining whether to include certain true identities to be, in the words of the court, "reasonable criteria."

Now let me turn to the substance of the report. All of you have a copy before you, and from time to time we may have occasion to turn to certain parts of it.

It is organized as follows:

Part I introduces the committee's work, explains why the report must be made public, and summarizes the events examined in the body of the report.

Part II explains several key concepts which are necessary to understand the events reviewed in the report, such as the nature of covert action, the basic lines of authority in the CIA, and the doctrine of plausible denial.

Part III sets forth the facts and testimony relating to the assassination operations and the level at which they were authorized.

Part IV contains the findings and conclusions of the committee.

Finally, part V, outlines the recommendations of the committee.

During the course of its investigation, the committee addressed four broad questions.

First, did the United States or U.S. officials instigate, attempt, or aid and abet plots to assassinate foreign leaders?

Second, did U.S. officials assist foreign dissidents in a way which significantly contributed to the killing of foreign leaders?

Third, where U.S. officials were involved in assassination plots or other killings, were their activities authorized, and if so, at what levels of our Government?

Fourth, even if the involvement of officials of the U.S. Government in assassination activities was not expressly authorized, did those officials perceive their actions to be within the scope of their lawful authority? Furthermore, did high-

er authorities exercise adequate control to prevent such misinterpretation?

Richard Helms, who had been involved in an assassination plot before he became the Director of the CIA, issued an intraagency order banning assassination once he became Director in 1972. William Colby did the same in 1973, and told the committee:

With respect to assassination, by position is clear. I just think it is wrong.

The committee's findings and conclusions are set out in part IV of the report, beginning at page 255. Its findings regarding whether officials of the U.S. Government were involved in assassination attempts appear at pages 255 through 257.

Senator Tower and I have agreed to divide the initial presentation, and in order not to duplicate what he intends to say, I would like to address the remainder of my time to an outline of the findings and conclusions of the committee.

The committee's investigation establishes once and for all that assassination is an abhorrent practice that must never again be undertaken in times of peace by the U.S. Government. Our view that assassination has no place in America's arsenal is shared by this administration. President Ford, when he asked this committee to study America's involvement in assassination, stated:

I am opposed to political assassination. This administration has not and will not use such means as instruments of national policy.

Witnesses who testified before the committee denounced assassination as immoral, described it as impractical, and reminded us that an open society, more than any other, is particularly vulnerable to the risk that its own leaders may be assassinated—something of which we hardly need to be reminded, I should think.

Now let me turn to our findings with respect to the plots themselves. Turning first to the Lumumba case, we have concluded that officials of the U.S. Government formulated a plot to assassinate Patrice Lumumba, and took steps in furtherance of that plot, including the delivering of lethal biological substances to the Congo. This Nation had no involvement, however, in Lumumba's actual death, which occurred at the hands of his Congolese enemies.

In the Castro case, the committee has found that officials of the U.S. Government initiated and participated in a series of plots to assassinate Fidel Castro and other members of the Cuban leadership. Plans to assassinate Castro with poisoned cigars, exploding seashells, and a contaminated diving suit did not advance beyond the laboratory phase. Another plot, however, in which the U.S. Government used underworld figures, reached the stage of producing poison pills, procuring potential assassins within Cuba, and apparently delivering the pills to the island itself.

Yet another episode involved a Cuban who initially had no intention of engaging in assassination, but who finally agreed, at the suggestion of the CIA, to attempt to assassinate Fidel Castro.

the opportunity arose. In the AMLASH operation, the CIA gave active support and encouragement to a Cuban whose intent to assassinate Castro was known, and provided him with the means for carrying out the assassination.

The overthrow of Rafael Trujillo was clearly an objective of U.S. foreign policy. American officials offered both encouragement and weapons to dissidents in the Dominican Republic known to have the intent to assassinate Trujillo. The United States was not involved, however, in the actual assassination.

Similarly, American officials offered encouragement to a group of Vietnamese generals plotting the overthrow of Ngo Dinh Diem. However, the assassination of Diem and his brother Ngo Dinh Nhu was neither planned nor suggested by officials of this country.

Our investigation has established that officials of the U.S. Government offered encouragement to the Chilean dissidents, and plotted the kidnapping of Gen. René Schneider, but no U.S. official planned or encouraged Schneider's murder. Certain high officials did know, however, that the dissidents planned to kidnap General Schneider, and the possibility that he would be killed should have been recognized as a foreseeable risk of the kidnapping.

In addition to these five cases, the committee has received evidence that ranking Government officials discussed and may have authorized the establishment within the CIA of a generalized assassination capacity known as the Executive Action project.

The question of the level at which these plots were authorized or known about in the U.S. Government is a complex one, not susceptible to easy answers. Our conclusions concerning this issue are set forth at length in part 4 of the report. Those findings are introduced and summarized at pages 6 and 7 of the introduction and summary section of the report, from which I now quote:

The picture that emerges from the evidence is not a clear one. This may be due to the system of deniability and the consequent state of the evidence which, even after our long investigation, remains conflicting and inconclusive. Or it may be that there were in fact serious shortcomings in the system of authorization so that an activity such as assassination could have been undertaken by an agency of the United States Government without express authority.

The Committee finds that the system of executive command and control was so ambiguous that it is difficult to be certain at what levels assassination activity was known and authorized. This situation creates the disturbing prospect that Government officials might have undertaken the assassination plots without it having been uncontroversially clear that there was explicit authorization from the Presidents. It is also possible there might have been a successful "plausible denial" in which Presidential authorization was issued but is now obscured. Whether or not the respective Presidents knew of or authorized the plots, as chief executive officer of the United States, each must bear the ultimate responsibility for the activities of his subordinates.

The Committee makes four other major findings. The first relates to the Committee's inability to make a finding that the assassination plots were authorized by the

Presidents or other persons above the governmental agency or agencies involved.

Let me just digress here a moment to explain that the committee was very careful not to make findings where the evidence was insufficient, or where it was conflicting, or where there were gaps which we were unable to fill because we were reaching back 15 years into a world of secrecy.

In those cases, however, we set out the evidence so that Members of the Senate, the American public, and historians in the future might have an opportunity to know what this committee found in connection with the evidence and make their own appraisal of each case.

In fairness to men now dead who cannot speak up for themselves, only in those situations where the evidence was conclusive, did the committee make findings.

So, if I may repeat, the committee makes four other major findings.

The first relates to the committee's inability to make a finding that the assassination plots were authorized by the Presidents or other persons above the governmental agency or agencies involved.

The second explains why certain officials may have perceived that according to their judgment and experience assassination was an acceptable course of action.

The third criticizes Agency officials for failing on several occasions to disclose their plans and activities to superior authorities or for failing to do so with sufficient detail and clarity.

The fourth criticizes administration officials for not ruling out assassination, particularly after certain administration officials had become aware of prior assassination plans and the establishment of a general assassination capability.

As explained at pages 262 and 263, we could find no hard evidence that assassination was seriously considered or urged in the high councils of Government outside of the CIA. The minutes of the National Security Council and special group meetings, however, contain repeated exhortations for action such as getting rid of Lumumba and removing Castro. While assassination may not have been explicitly authorized by the Presidents and their advisers, their strong expressions of hostility to certain foreign leaders created an environment in which it was likely that some CIA officials would perceive assassination as a permissible course of action.

We have found that the plots to assassinate Lumumba and Castro were clearly authorized by the Deputy Directors for Plans, the head of the CIA covert-action arm. The plot to assassinate Lumumba had the approval of Allen Dulles, who was the Director of the Central Intelligence Agency when the assassination plot in the Congo took place.

There is considerable evidence that Dulles may himself have authorized the plot to kill Castro although there is no evidence that his successor, John McCone, was aware of the assassination attempts against Castro that took place during his tenure as Director of the

We have no solid evidence that either President Eisenhower or his subordinates were aware of any U.S. assassination plots. One witness did recall a statement by President Eisenhower at the NSC meeting that left him with the impression that President Eisenhower had ordered Lumumba's elimination, but other persons who attended that meeting testified that they did not recall ever hearing President Eisenhower order his assassination.

Our investigation has also raised serious questions not only about knowledge and authorization of the assassination efforts at the Presidential level but also about whether officials of the CIA sufficiently informed their superiors in the agency and officials above the CIA about their activities.

In the final analysis, the tragic events investigated by the committee were in large part a result of the system of executive command and control which created the risk of confusion, rashness, and irresponsibility in the very areas where clarity and sober judgment were most necessary.

Whatever can be said in defense of the original purpose of the doctrine of plausible deniability, the extension of the doctrine to internal decisionmaking was absurd.

The democratic process is undermined by any doctrine which insulates elected officials from information on which to base their decisions. According to some witnesses, the extension of the plausible denial doctrine to internal decisionmaking required the use of circumlocution and euphemism in speaking with Presidents and other senior officials. Failing to call dirty business by its rightful name may have increased the risk of dirty business being done.

Ultimately, Presidents must be held responsible for determining the nature of major Government activities and for preventing undesirable activities from taking place. High administration officials had a duty to make clear to their subordinates that assassination was impermissible and to inquire further when they received indications that assassination was being considered by some of their subordinates.

Just as Presidents must be held accountable, their subordinates throughout the Government had a concomitant duty to disclose fully their plans and activities. This sets a demanding standard but the committee supports it. The future of democracy rests upon such accountability.

I might suggest, as all Senators know, that nothing is more fraught with peril to the foreign policy of a nation than assassinations. They have set off great wars including, as Senators will remember, the First World War, and thus the need is evident for clear command, control, and complete accountability within the executive branch.

The committee's long investigation of assassination has brought a number of important issues into sharp focus. Above all stands the question of whether assassination is an acceptable tool of American foreign policy. Recommendations on other issues which relate more

generally to covert action and the completion of our continuing investigation and the issuance of our final report. But the committee has received sufficient evidence to be convinced that an absolute prohibition against assassination should be written into law.

It would be irresponsible not to do all that can be done to prevent assassination from happening again. A law is necessary to deter specific conduct, to strengthen the will of those who want to resist urgings to engage in such conduct, and to express the values of our Nation.

The committee, therefore, recommends the enactment of a law that will provide criminal sanction against the assassination of foreign leaders, as well as any conspiracies or attempts to commit such acts in time of peace.

The proposed law is contained in appendix A at page 289 of the report. It is sometimes asked whether assassination should be ruled out absolutely, such as in a time of truly grave national emergency. Adolf Hitler is often cited as an example. Of course, the cases which the committee investigated were not of that character at all. Tragically, they related to Latin leaders and black leaders of little countries that could not possibly have constituted a threat to the security of the United States.

The only time when Mr. Castro permitted his island to become a base for Russian missiles, the only time during which it might have been said that he had become a threat to the security of the American people, was the one time when all assassination activity, plans, and plots against his life were stood down.

So we are not talking about Adolf Hitler or anything of that character, nor are we prejudicing actions taken in a grave national emergency when the life of the Republic is endangered. In such cases, the President has constitutional powers to act to defend the Nation; and he is answerable to history, to Congress, and to the American people for the action he takes in emergencies of that extreme character.

The committee's sentiments are aptly summarized in the epilog to the report which appears at page 285.

The committee does not believe that the acts which it has examined represent the real American character. They do not reflect the ideals which have given the people of this country and of the world hope for a better, fuller, fairer life.

We regard the assassination plots as aberrations. The United States must not adopt the tactics of the enemy. Means are as important as ends. Crisis makes it tempting to ignore the wise restraints that make men free; but each time we do so, each time the means we use are wrong, our inner strength, the strength which makes us free, is lessened.

Despite our distaste for what we have seen, we have great faith in this country. The story is sad, but this country has the strength to hear the story and to learn from it. We must remain a people who confront our mistakes and resolve not to repeat them. If we do not,

we will decline. But if we do, our future will be the best of our past. [Applause.]

Now, I should like to recognize the distinguished Senator from Texas who serves so well as vice chairman of the committee.

Mr. TOWER. I yield myself such time as I may require.

Mr. President, I compliment the distinguished Senator from Idaho, the chairman of the Select Committee, for his very good summation of the contents of the report. He has worked very hard to make this report a reality and has earned the gratitude of the Senate in the process.

I have just a few comments in amplification of the chairman's presentation. While I agree with him substantively on everything that he said regarding the report, we may have some degrees of disagreement on matters of foreign policy, but I will not open the foreign policy debate here today.

The select committee comes before the Senate today for consideration, prior to official disclosure to the public, of a report on matters of very grave national importance. It has been apparent since the first surfacing of allegations of U.S. involvement in assassination attempts that this Senate inquiry would have a profound impact on the future course of our intelligence organizations and their activities. This report will be the first public document to provide an in-depth review of some of the workings of intelligence-related aspects of our national security apparatus.

Along with some other members of the select committee, I initially expressed strong reservations against any detailed account of the evidence received by this committee—not because of any partisan consideration but, rather, for fear of permanent damage to the Nation's security and the continued effectiveness of our intelligence agencies.

While I accept and respect the judgment of my colleagues, I am compelled to state my continuing concern regarding the wisdom of full public disclosure. The ultimate effect of the report may be for the American public to appreciate that quick, seemingly easy answers, such as assassination, are not the most effective way to rid ourselves of those with whom we are engaged in ideological combat.

Careful public examination of the entire report also should provide some perspective for evaluation of the views of those who would summarily place the entire blame for the departures from democratic tradition at the feet of the much maligned and too often maligned intelligence community. Hopefully, the public will begin to wrestle, as the select committee has, with the real problem—the absolute necessity for instrumentalities of the U.S. Government to have secrets and discharge their obligation to protect the people's right to be secure, with the assurance that the American public and Congress stand behind them. It may be that baring these reprehensible activities is necessary to achieve this result.

It is a very difficult problem with

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

which to wrestle. We might raise this rhetorical question: At what point must the people's right to know be subordinated to the people's right to be secure, to the extent that an effective intelligence-gathering capability can make them secure?

Before turning to the results of our investigation, I should like to say another word concerning public release of the report. The President sent a letter to every member of the select committee, asking that we not make the report public. His concern is not to conceal from the public any activities of his administration. Everything we looked into occurred before this administration came into office; so it is because of no concern with the President's own skin that he made this request of us. Rather, he feels that public release will cause serious harm to the national interests and would endanger certain individuals. I fully understand and accord a great deal of weight to the President's concern.

The President, in the concluding paragraph of his letter, sharpened the committee's problem by stating:

I am sure the select committee will recognize the enormous responsibility it has to see to it that serious damage will not result to the United States by the publication of this report and will recognize also the duty which I have to emphasize the disastrous consequences which can occur by publication.

Since receiving the President's letter, the committee has made great strides in accommodating most of his stated objections. In the few instances in which the language of the report might have revealed sensitive sources or methods, the committee has deleted entirely such references.

The committee has always intended to omit such references, and our concern in that regard has been heightened by the President's remarks. The deletions were based on the judgment and advice of a longtime CIA employee who worked for several days with a member of the staff in receiving the report. This expert also pointed out several places in the report which may have unnecessarily risked the life or livelihood of a CIA employee or agent by divulging his name. In each instance, we weighed the risk for potential harm to the individual which might result if his or her name were used. The committee then decided whether to delete the name, to provide an alias, or to leave the individual's name in the report.

Turning to the report itself: In general, I believe the report fairly represents what happened. Some of the witnesses, I personally believe, did not tell the whole truth, and others concealed what may be the truth. On the whole, history should record this investigation as an honest effort by a hard-working committee.

The select committee, pursuant to Senate Resolution 21 and the necessity to complete the work begun by the Rockefeller Commission, spent many long hours over the last 8 months conducting our investigation into the alleged assassination efforts against foreign lead-

ers. As a matter of fact, we have been so diligent in this activity that I suspect that all 11 members of the committee have allowed some constituent business to slide a bit. We may be rewarded for that later.

One aspect of the plots which has become clear to me is the historical context of the times in which they occurred. America in the post-war period was engaged in a battle against the spreading infection of communism in what have been called the "back alleys of the world." Soviet influence was increasing in the emerging new nations that were formerly of colonial status. In the summer of 1960, shortly after the Congo gained its independence from Belgium, Patrice Lumumba threatened to invite the Soviets into the hastened Belgian withdrawal. When Fidel Castro came to power in Cuba in 1959, his appearance was generally acclaimed, but it became increasingly clear over the next 12 months, as Cuba signed a trade agreement with the Soviets and then nationalized industries, that Castro's presence and influence 90 miles off our shores constituted a clear and present danger to the United States. It is understandable, then, that as to each target of assassination that this committee studied, we found that the President of the United States viewed those targeted with extreme hostility.

Commenting further on the matter of Cuba, and I shall not go into the assassination plots, because my distinguished colleague from Idaho has already summarized these, I would expand further, however, on the Castro matter. The authorization for the plots against Fidel Castro appears to stem from a document discovered by the CIA only last week and delivered to the committee last Friday evening while the staff was in the process of proofreading the galleys of the report.

This document makes it crystal clear that Allen Dulles approved the thorough consideration of the elimination of Fidel Castro in December of 1959. Prior to the receipt of that document, it had not been entirely certain whether Allen Dulles approved or knew of the planning against Castro. In light of that document, the only question remaining is whether the individuals who were directed to consider the plan somehow exceeded Dulles' order by contacting underworld figures. It is my strong personal conclusion that the CIA employees who received the order from Dulles to plan for eliminating Castro need not have returned to him at that point, even assuming that they did not. In the highly disciplined CIA, I would expect employees to go forward with an order for consideration until they came up with a plan which they were confident would succeed.

After these many months of investigation, I concluded that in each of the cases studied, assassination was an improper and reckless tactic, one which did not serve our national interest. I concur in the committee's recommendation that there be legislation to outlaw further assassination efforts against foreign leaders.

My second and more general conclusion is that by no means should any past

involvement in assassination plots adversely reflect on the present CIA leadership or on the great number of its highly disciplined, dedicated, and enormously loyal employees. I sincerely hope that we have not placed the CIA or our other intelligence apparatus in a position which would, in any way, erode or threaten our necessary covert efforts or our highly sophisticated and sensitive collection methods.

As the chairman noted, the task before our committee has been difficult and carrying out these responsibilities has been painful. We have worked diligently in our efforts to provide the Senate and the American people answers to the hard assassination questions. I believe that to the extent possible, this report provides those answers.

Mr. President, I think I would be remiss if I did not allude to the fact that the report of the select committee which the Senate is considering today is very unique as to subject matter. But it has something in common with most well-prepared Senate documents. It would not have been possible without the dedicated work of the staff. I think we have been especially fortunate on the select committee in assembling a most able and well-trained group of capable people in all levels of positions. The excellence of our clerks, secretaries, researchers, and professional staff members is exceeded only by their willingness to work long long hours furthering the committee's investigative efforts and accomplishing the formidable paperwork which accompanies a major investigation. In no area of the committee's work have these qualities been more evident than during the investigation of the various assassination allegations and in preparing the report submitted today.

I should like personally to thank every woman and man on our staff who sacrificed personal time in order that the objectives of Senate Resolution 21 could be met. The preparation of the report has been a bipartisan staff effort, and I know that I express the sentiment of all of my colleagues on the committee when I extend our appreciation to the entire staff for a splendid and, perhaps, monumental piece of work.

Mr. CHURCH. Mr. President, this report, as I earlier mentioned, is the report of your committee. The resolution by which the committee was empowered to undertake this investigation delegated to the committee the authority to issue such reports as, in the judgment of the committee, were warranted. This report bears the signatures of the members of the committee, all of whose signatures appear except for that of PHILIP HART on the Democratic side, who was unable to attend many of the hearings because of his illness.

I should like, first, to refer to Senator HART, the ranking Democratic Member, for any remarks he would like to make. Then other members of the committee may have some comments, after which the floor will be open to general questions and debate.

Senator HART, is there anything you would care to say?

Mr. PHILIP A. HART. No; except to

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

thank you and Senator Tower and others for your kindness during that period and to indicate that my views, very brief, are found on page 297. In short, I feel that I have been able to inhale enough of the testimony and participate in sufficient of the discussion to support the committee recommendations for a statute explicitly prohibiting assassination activity. I feel that I would be faking it if I signed a report indicating that I participated in the authorship, or signed as a regular participant.

Mr. CHURCH. I just want to say how much we all appreciate the fact that Senator HARR is back with us again in connection with our continuing work.

I yield 2 minutes to the Senator from Tennessee.

Mr. BAKER. Mr. President, in my 9 years in the Senate, I have never undertaken anything more difficult, more embarrassing, and potentially more damaging than this inquiry and investigation, notwithstanding the others in which I have participated. Even so, I think it was essential that we go forward with the inquiry, because I think that, having the suggestions made that there were, I believe, irregularities in the intelligence apparatus, it would be unconscionable not to inquire into it.

I think both Senator Church and Senator Tower have done a magnificent job, not only of administering the investigation and the staff, but of maintaining a degree of equanimity and tranquility in an emotionally charged and a potentially political atmosphere.

I commend them and each member of the committee as well as the staff for keeping their cool.

I generally agree with the committee report and with the observations by Senator Church and Senator Tower. I do believe, however, that were we involved in a trial of the facts before a jury in the usual traditional way that a different result might have obtained.

I rather expect that a scholarly and responsible analysis of the facts does indeed give us only one possible conclusion, and that is we do not know whether Presidents authorized or did not authorize these assassination attempts. There is no doubt that the attempts occurred. But I think if we tested the proof by the usual courtroom standards, that is, the appearance and demeanor of the witness while testifying, of his means of knowledge, of his prior inconsistent statements, of the possibility of involvement, and inconsistencies while testifying under cross-examination of the witness, his means of knowledge, his interest in the subject matter, if any, I think by observing the testimony as well as hearing it, one would conclude, as I have concluded, on balance it is more likely that Presidents did know and probably authorized the several activities than that they did not.

It is a far cry from saying we have proved that. Rather I think it more likely that diminishes the image of the intelligence community as an irresponsible apparatus. I think it intensifies the need that we put in place a system of accountability for significant agency and Presidential activities.

Mr. CHURCH. Mr. President, I recog-

ize the 5 minutes for 5 minutes.

Mr. MONDALE. I thank the Senator very much.

I also wish to join the others in commending our chairman and our vice chairman for their work in the development of this historic report.

In my opinion, we need a CIA; we need the best intelligence-gathering agency in the world, and we must make certain that we continue to have it.

To have a CIA, it must operate in secret. This is a very grievous concession for a democracy to make but one which must be made if it is going to do its work.

What bothers me about what has been developed in this report is that our intelligence operations are not only secret but they have been unaccountable; as we tried to sort through the facts of these allegations and pin down what happened, it came to be like trying to nail jello to the wall.

Practically everything said in direct testimony was contradicted by somebody else. The documents often contradicted one another or there were contradictions in the same document.

As you read this report you will find that running through the whole CIA and the Government structure that was supposed to control these very sensitive and explosive matters was the doctrine of plausible deniability, the theory that if something was exposed everyone is responsible ought to be in a position to deny it.

I think you will see by the documents that it does not work. It ends up with a principle of implausible deniability.

We put our top officials in a position where they either ultimately have to admit responsibility for an operation or worse they have to lie about it, as we did in the U-2 incident, as we did initially in the Bay of Pigs, and so on. It is a theory that does not work. It is humiliating and it undermines American confidence in its own Government.

So I would hope, as we consider this report, we would see how we can strengthen the CIA. Equally important we must consider how we can also make certain that from here on out should there be questions about responsibility for an operation, the record, privately and secretly, but clearly, disclose who did it, why, and who is responsible.

Not only is this required because democracy must have that kind of ultimate accountability but, I think it can help increase the sobriety and restraint of those making the decisions. I think there is evidence in the report that many of these steps were taken by people rather loosely and without mature consideration—among other reasons, because they did not think they would be blamed if someone found out.

So both because our Constitution requires it and, second, because we want to make certain that our Government is very careful when they do covert operations—and I hope we will prohibit much of the sort of thing that is in this report—I think it is important to nail down an accountability system that cannot be avoided.

A second point I would like to make

itself. First of all, I think it is a very dangerous tactic for Government leaders to pursue. There is a statement in Macbeth about how inventions return to plague the inventor. We do not know what happened, but when we pursue a strategy of assassinating foreign leaders, I think we ought to concern ourselves with the possibility that foreign leaders might decide that if we are going to play such a game against them they can play it against us.

Now, it embarrasses me, with Senator KENNEDY present—and it also is not an accurate reflection of the record—to say that one of the things that disturbed me the most in our investigation was to find an interview by Prime Minister Castro 5 weeks before the tragic assassination of President Kennedy in which he said just that. He knew that the CIA was trying to assassinate him, and he said so publicly.

The second thing I would like to say on this point is this: running through practically every one of these attempts by the CIA was an incredibly naive view that somehow, with a couple of guns, a couple of bucks or a couple of lies, we know no one could ever do to us.

It never worked. We were never able to kill anybody we tried to kill—that is the first thing; and, moreover, there is no evidence that if succeeded, it would not be more harmful to us than leaving things the way they were.

Third, it seemed to me there was never any serious discussion about the overall risks of what we were doing; what happened if the public heard about it, what would be the results in that society, and what would be the fundamental result to the integrity and moral authority of our country in foreign affairs. Today, no matter what happens around the world, if Faisal is killed, we did it. If there is trouble in Portugal, we did it. We get blamed for more things we do not do than any country in the world, because we have stuck our nose naively and foolishly into too many people's businesses. And almost always, it does not work. It kicks back on us, and it hurts us more than it can possibly help. But it seems those questions were never asked.

So I would hope we would look at the system of command and control over overt operations. But I also hope we would look at the question of how much American can really influence the internal politics of another society in this way.

Mr. President, the events described in this report are in every sense a tragic chapter in American history. Rather than dwell on the report and its detailed account of the assassination plots which the Select Committee investigated, I would rather dwell upon America's response to this tragic story.

There are two basic responses to tragedy. One is to withdraw, to tune out, to become self-absorbed and cynical. The other, more difficult, response is to accept the facts and then go forward with the changes that will help assure that tragedy will not be repeated.

I believe that confronted with the facts, the American people have the strength and character to choose the second course. It is my hope that, through

all the public outcry that this report will rightly generate, the American people will not lose sight of the important lessons to be learned. It is my conviction—based on this report and the subsequent work of the committee in the whole range of intelligence activities—that major changes are required in the way our Government conducts itself in this vital field of national security.

Today I would like to focus briefly on these changes.

The first step, as recommended in the report, is to rule out assassination as an instrument of U.S. foreign policy. Wartime obviously constitutes a different situation, but in peacetime, there is no place for assassination in our arsenal of international policies and programs.

Nonetheless, if we are to continue to have clandestine intelligence organizations—which I believe are necessary given the current state of world affairs—then we must take steps to insure that these organizations strictly adhere to policies, purposes and standards of the American Government and the American people.

Two things are called for:

First, we must devise a better structure of accountability for clandestine activities.

Second, we must adopt more mature policies governing such intelligence operations.

Accountability is the most important issue. I am prepared to accept that intelligence activities must be secret. But I am not willing to further concede that they can be unaccountable. I am convinced that if we had an effective system of accountability, the misguided efforts outlined in this report would never have been undertaken.

Much public discussion is likely to focus on whether the President knew and approved of the assassination plots outlined in the committee's report. This is an important issue and we have put forward all the relevant facts at our disposal. But the real issue is that there is no system to hold the Government to account in such matters. Instead we had a system of deniability, where everyone could avoid responsibility or claim higher authority for their actions, or both.

Theoretically, the CIA reports to the President. But in practice, the Agency usually takes orders from a committee, or from Presidential assistants, or acts on its own authority. Committees, of course, are a notorious way to avoid responsibility. And in some administrations, there were up to a half-a-dozen Presidential assistants purporting to speak for the President. Even in those administrations where the line of command was clear, Presidential assistants have not been subject to congressional scrutiny. Until the establishment of the Select Committee, the CIA itself did not apparently discuss the matters contained in this assassination report with the then duly-constituted congressional bodies.

This system is unacceptable in a democracy. It must change. To this end, I propose that the following remedies be given serious consideration. They seek to provide a clear system of accountability

backed up by one of the most important principles of our Founding Fathers—the control of power through the process of checks and balances.

There must be a clear chain of command. No longer should the CIA report to a committee, or to a shifting group of Presidential aides and advisers. Moreover, all clandestine activities—intelligence and counterintelligence, not just covert actions—should be subject to review in this chain of command.

The chain of command should include a Cabinet officer. The President is too busy to monitor the intelligence community. The chief of intelligence cannot do it himself; for he has too great a self-interest. So there must be someone between him and the President. Assistants to the President should not do it, for they are too insulated from congressional oversight.

I have therefore concluded that it is a Cabinet officer, be it the Secretary of State or the Secretary of Defense, on whom we must place the primary responsibility for policy review and operational accountability for our clandestine intelligence activities.

The clandestine services, the "operational" part of the CIA, should be made into a separate agency with a primary mission to collect intelligence.

This is strong medicine, but I believe it is essential to strengthen outside control over potentially dangerous and risky clandestine activities. It would apply the concept of checks and balances to the intelligence community. It would permit intelligence analysts to make a more objective assessment of the activities of the clandestine operators than if they live under the same roof as they do today—an arrangement by which the operators have inevitably bested the analysts.

The effectiveness of congressional oversight would also be strengthened. There is no question but that we can keep closer tabs on clandestine activities if they are not insulated from oversight by being mixed in with an agency that has a vast array of other programs and personnel running technical collection projects and producing various forms of intelligence.

Moreover, we are likely to produce better intelligence by moving the clandestine service out of CIA. This would free CIA analysts of any obligation to rely more on their clandestine services than on other vital sources of intelligence such as NSA, State and Defense.

Finally, we must establish a system of effective congressional oversight. The Select Committee staff has been developing proposed legislation to that end, which the committee will turn to shortly.

We must of course have no illusion that structural changes alone will solve every problem. They cannot provide 100-percent assurance against future abuse. While we must be realistic about what we can accomplish through legislation, we must avoid the cynicism which says that Government is inherently bad, that nothing can be done about it, and that all we can do is hope for better human nature. I believe that something can be done; that something must be done. And

I hope that the changes I have outlined will be given the most serious consideration.

In addition, however, we need to make some changes in our outlook. The American people are determined not to be the world's policeman, prepared to intervene with military force in every corner of the globe. We must not substitute the equally fallacious and naive idea that we can change the course of history with a couple of bucks, a couple of lies, or a couple of guns.

As we face the challenges of the next quarter of this century, we should keep in mind an important lesson which applies to every aspect of life and human endeavor. We should do those things that we do best; those things that we are equipped to do. The brightest chapters of American international involvement in peacetime are the constructive episodes—the Marshall plan, NATO, the Peace Corps, the Alliance for Progress—and the darkest chapters are those when we thought we could beat the totalitarians at their own game.

In facing the unpleasant facts of the assassination report, America must also face the more encouraging fact that we are just not very good at that sort of thing.

The idea that this kind of business can be kept secret, and therefore cost free, has proven to be an illusion. The dirty secrets inevitably come out and America ends up paying more, once these deeds are revealed, than it ever could have achieved by their success.

Mr. President, I am hopeful and confident that America will learn the lessons of this report. I believe that we can modify our intelligence institutions to make them accountable to the Congress and the American people and prevent further abuses of this sort. In the end, I am confident that America will be strengthened by once again learning the lesson that our Government must be true to the American character and to our basic values.

Mr. TOWER. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, before I read the paper I prepared I would like to concur in what Senator BAKER has said and what Senator MONDALE has touched on by this statement: I asked two different top men of the CIA if they would lie to protect the Presidency, and they both said they would. I think we have to accept that determination on their part as an obstacle over which we probably can never crawl.

I believe that the publication of an interim report on assassinations is an action which the Senate will come to regret.

While I have added my signature to the report, it is purely an act of gratitude for the hard work done by the committee and the staff.

My own views on this whole subject matter are appended to the report.

Now, strong arguments can be made for the public's right to know. And, in general, I fully support the principle that Americans must know and need to know about their Government.

But traditionally and going back to

November 20, 1975

CONGRESSIONAL RECORD—SENATE

S 20631

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

the founding of this Republic, certain matters have been excluded from this general principle. Grand jury proceedings are one example. The conduct of intelligence operations and methods is another example.

In one way or another the United States has been involved in intelligence activities beginning with the Revolutionary War. By tradition common to all nations our intelligence operations have been shrouded in secrecy.

It is inconceivable to me that any of our allies would publish the kind of report we propose to release today; and let us remember that some of them hold to democratic principles just as dearly as we do.

There are several questions I believe the Senators should ask themselves as we ponder the question of releasing an interim report on assassinations.

First. Will it raise more questions than it will answer? I believe the answer is "Yes."

Two. Will the reputation of great Americans be damaged? I believe the answer is "Yes."

Three. Will it serve any public interest? I say "No."

Four. Will it serve any legislative purpose? I say "No."

Five. Do the benefits of publishing outweigh the hazards? Emphatically, I say "No."

While there may be some possibility that classified information will be revealed through the publication of this report, I believe a sincere and determined effort has been made to prevent such an occurrence.

My chief concern is the diplomatic damage this document may do to our country. It is difficult to predict the reactions of our friends and enemies abroad, but I believe it will be generally unfavorable to our interests.

In fact, a few weeks ago, in visiting the headquarters of NATO, this whole subject was the major subject of discussion between our commanders there and the commanders of our allies.

Cooperation by foreign governments with our diplomatic and intelligence services is to a large extent based on mutual confidence. Where intelligence operations are involved, assurances of secrecy provide a flow of information—a flow that stops when secrecy agreements are violated.

And the publication of this report will certainly have one bad effect: it will make it more difficult for foreign governments or friendly foreign citizens to believe they can enter into confidential relations with the United States of America which will be respected. Much of the information received by the Select Committee that went into the interim report was gained in other years from persons who were given promises of confidentiality and in some instances protection.

I hasten to add that the substantial damage that has been done to our intelligence services is not the result of actions by Congress. We all know the story. Much of what has appeared in the press was released by persons who had some political or personal grievances.

But, the fact that substantial damage has already been done is no reason to throw another log on the bonfire.

Part of the problem we are facing comes from the determination of recent Congresses to assert authority over foreign policy. The meddling with Jewish immigration from Russia and the meddling in the Greek-Turkish conflict over Cyprus are two examples—and two examples where the effects were bad. I could cite more.

I believe it is impossible for the Congress to try to influence the day-to-day decisions in foreign policy. Moreover, I believe the President and his agents must have the primary role in our relations with other countries.

In other words, the Congress is attempting to do something which has failed in the past. One of the weaknesses in the Articles of Confederation was the lack of executive authority in foreign policy.

In the aftermath of World War I, the Senate injected itself into the postwar settlement with considerable damage done for the long-range interests of America. Notably, was the failure to join the League of Nations, which signaled that America had retreated into isolationism.

I believe that Congress does have rights and obligations in the conduct of foreign policy. They derive from article II, section 2 of the Constitution. What we are talking about is the broad area of general policy decisions through the treaty making process.

For the most part Presidents have submitted important policy decisions to the Congress. The creation of NATO and of the Marshall plan are examples of how the President and the Congress have shared important policy decisions. And, here are two examples where the Nation and the free world benefited beyond measure.

Mr. President, one more minute or two is all right.

Turning to the subject of abuses, I believe we know the story of where recent administrations strayed away from the law. If laws have been violated, then let us return indictments, and let the courts do their job.

The wholesale foraging of the Congress into the details of foreign policy and the intelligence services upon which it depends, can only serve to give comfort to our opponents and to embarrass our friends.

Our reputation abroad is not enhanced by a spectacle of public self-flagellation. Most of our allies are dumfounded, incredulous, and stupefied by what we are doing.

Let us get on with the job of remedial legislation where needed.

Let us not tell the world we are retreating into isolationism.

Most important, let us get our intelligence services out of the Elmer Fuchs, because those lights blind them at a crucial moment in our history.

Mr. CHURCH. Mr. President, I recognize Senator Huddleston for 5 minutes.

Mr. HUDDLESTON. I thank the chairman.

First of all, I express my appreciation to the chairman and the vice chairman of our committee and the entire staff. I think the leadership they have given to this very important work has been exemplary in every aspect of the word and has contributed to the success the committee has had to date in dealing with these very difficult and complex problems.

Mr. President, the Select Committee To Study Governmental Operations With Respect to Intelligence Activities is today releasing its first—and one of its principal—reports.

It is, therefore, a proper and fitting time for us to pause to reflect on the duties and responsibilities of the U.S. intelligence community and of this congressional committee and to bring the focus on this report and the committee's activities into perspective.

There have been, since this investigation was initiated, fears by those who believed legitimate and necessary intelligence activities would be undermined and those who believed that a coverup of improper activities and policies was likely. I believe that our committee has proven that those on both the outer edges of the spectrum were incorrect. I believe that we have proven that we can study, even investigate, without impairing necessary operations and without blinding ourselves to questionable activities, which may have gone beyond authority granted, legal norms, or simple propriety.

But, without a doubt, the greatest disservice we can do to our intelligence apparatus, our investigation, our Nation, or ourselves is to view these activities out of the context in which they exist and which, to a great extent, has formed them. For me, the danger of any imbalance, of any misunderstanding, of any misrepresentation, lies in three areas we should all be aware of. It lies, I believe, in, first, a discounting of the threats to U.S. security which do exist; second, a pretension that ill-advised actions and policies have not taken place; or third, allowing sensational and isolated events—especially those events occurring in other times, other places, other atmospheres—to be viewed outside the context in which they had their being. Fire is comfort or danger, depending on its nature and the circumstances. So, too, are intelligence activities. The key lies in protecting the features which provide comfort and preventing those which raise danger.

Intelligence activities do not today—and never have—existed in a vacuum. It is, I believe, important to remember that modern U.S. intelligence activities were an outgrowth of the attack on Pearl Harbor more than 30 years ago. There had been a number of warning signs that hostilities could be expected, but the available information was not properly analyzed and evaluated—and it, therefore, was not translated into policy. U.S. intelligence activities were further nurtured in post World War II Europe, where a confrontation between East and West became the modus operandi. And, with time, as American interests—whether for good or for bad, whether inevitably or avoidably—spread through-

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

out the world, so too did U.S. intelligence efforts.

As the years have passed, the direct and obvious relations between intelligence and national security have perhaps been obscured. A softening in the challenge atmosphere of previous decades and a diminishing threat of military confrontation in Europe have suggested to many that the cold war has indeed become history. As Berlin walls have given way to détente, Sputniks to joint space ventures and Czechoslovakias to security conferences, the events and developments which once reminded us of security needs have been clouded.

This does not mean, however, that they have ceased to exist. Today, interests continue to vary among nations. One need only look at recent debates within the United Nations to see how far and deep the divisions run. One need only follow the arms sales throughout the world and the probable impending enlargement of the nuclear community to understand how fragile peace and security really are. One need only review the recent history of the Middle East to know that, despite some rays of light, the stages for confrontations are still set. One need only examine the very complex shifts in world economic power to realize that challenges to peace and economic well-being will arise in many new forms in the years ahead. One need only refer to scholars' speculations about the Soviet Union after Brezhnev or Yugoslavia after Tito to understand that the world is still not the safe haven we wish it would be. One need only read the press speculations about SALT violations to recall that some of our security blocks are agreements, which are subject to abrogation and breach.

The threats remain. The conflicts among those who share this planet are still there. That they may look—and intrinsically be—different from the way they were in the late 1940's, the 1950's, and even the 1960's, does not signal their demise. Forms can change but basic realities remain. And out of this comes two lessons: The need for a strong, effective intelligence community continues, and methods and policies of the past may be creatures of their own time and place.

While today's interim report of the select committee details the kind of sensational, spectacular, and even bizarre activities that always grab the headlines, it is important to remember that intelligence operations are more than dreams and fancies pursued by modern-day adventurers. They are much more than groups of ill-advised men and women stirring a witches brew of plots and counterplots and manipulating foreign nations and peoples, as many detractors of the intelligence community would have us believe. These situations are the exception, not the rule. They are the few instances where the bounds of authority and propriety have been clearly overstepped. They need correction. But, the larger number of persons in the intelligence community are involved in legitimate activities, taken under proper command and control—honest men and women pursuing a job which few will ever know about or appreciate and yet

which is a cornerstone to much of our Nation's security. As such they need, deserve—and must know they have—the firm backing of those they work to protect. And, they are certainly entitled to clearly defined authority and guidelines clearly enunciated by the Nation's policymakers.

Thus, in approaching the committee's work, I have tried constantly to keep in mind these few principles—my work on the committee has only underscored my belief in them—my commitment to a strong, efficient, well-organized intelligence community as an essential of our national security, my concern that intelligence agencies be put above the level of suspicion raised by many reports and the belief that we must constantly strive to keep the information available and our activities in proper perspective.

As we begin with the report before us today, I hope my colleagues will think about these principles and their relation to our considerations.

INVOLVEMENT OF ASSASSINATION REPORT

To properly appraise the significance of the committee's Interim Report on "Alleged Assassination Plots Involving Foreign Leaders" we must look at the genesis of the report. The enabling resolution, Senate Resolution 21, instructs the committee to investigate and report on the full gamut of governmental intelligence activities and the extent, if any, to which such activities were "illegal, improper, or unethical." Moreover, in addition to that general mandate, the committee was and remains bound to investigate, study, and make legislative recommendations.

Senate Resolution 21, for example, requires the committee to study and investigate the following:

The extent and necessity of . . . covert intelligence activities . . . abroad;
(The) nature and extent of executive branch oversight of all United States intelligence activities;

The need for improved, strengthened, or consolidated oversight of United States intelligence activities by the Congress . . .

During the course of the inquiry of the Presidentially appointed Rockefeller Commission into improper domestic activities of the CIA, allegations surfaced concerning assassination activity by the agency on behalf of the U.S. Government. That panel conducted interviews and reviewed documents, and it filed with the President a separate, classified report on the various assassination plots pursuant to information provided to it by the CIA in the form, basically of the 1967 Inspector General's report. That Commission's report was not and never has been made public. At the direction of the President, however, the Commission delivered to the select committee what work it had completed, along with documents relating to assassination.

The committee then proceeded to conduct an exhaustive investigation. Literally thousands of documents were read, hundreds of witnesses were interviewed, and thousands of pages of testimony were taken under oath in executive session to determine both the truth of the allegations and under what authority such actions, if true, were conducted. The com-

mittee, in an effort to be fair to the agency and to the individuals involved, living and dead, and hopefully to resolve the questions concerning authority and command and control followed every lead, requested every relevant document, and interviewed every available witness. It is important to note that as a result of such an indepth look at this single issue of assassination we gleaned valuable information that will be applicable to our broader investigation of the intelligence community. For example, we have received documents of the various National security council, special group, special group—augmented, 303 committee, and 40 meetings. Thus, we have been privy to the documents of the decisionmaking mechanisms in the executive branch which deal with covert actions of various types. We have seen the problems in that decisionmaking process, the dilemmas, and pitfalls.

Our exhaustive look into "Operation Mongoose," the anti-Castro covert action program in the post-Bay of Pigs era, readily demonstrates the importance which our assassination investigation served. The totality of the documents and testimony concerning that operation provided a substantial background for the consideration of other instances of covert action.

IMPORTANCE OF REPORT

It is certainly true that the assassination issue is not only one of the more sensational of those covered, but probably also the most unpalatable to the American people and to the world. But its sensational and unsavory nature does not mean that it can or should be avoided. In fact, it is, perhaps, particularly important that these matters be reviewed in an open and objective manner and be placed in proper perspective. Ignoring the issues could only have fueled the fires of speculation and innuendo. It could only have provided those with qualms about the agency with additional reason to charge "coverup." The far better approach, I believe, is this report which has been worked on by all members of the committee and which seeks to bring the very important elements of knowledge and perspective to the events of a time when U.S. foreign policy and the U.S. role in the world were perceived quite differently from the way they are today.

At the same time, the report is important because, as I suggested earlier, it raises many of the more general issues regarding intelligence activities. It raises questions of propriety regarding policy. This is, of course, an extremely difficult area with which to deal. One man's morals are not another's. What is permissible in war and confrontation may not be permissible in peace. Consideration of such issues readily lends itself to pious oratory and rhetoric which contribute little to a true understanding of the complex and comprehensive issues involved. I think there could be little debate over the statement that assassination of foreign leaders is not a policy of the U.S. Government. It is not. It should not be. But, to wax oratorically on that, to the exclusion of other considerations, is to place the issue out of context.

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

Beyond the propriety of the questions of what intelligence policies are proper, how such policies should be determined in a democratic society, what command and control arrangements exist or should exist both within an intelligence agency and above it, what the role of covert activities in intelligence work is, what standards should overlay our entire intelligence efforts, and what degree of direction and supervision should be assumed by Congress. These are not easily answered, but the information which we have gathered as part of the assassination study should lend understanding to them, and it certainly underscores the necessity for clearer determinations of policy as early as possible.

COMMITTEE PROCEEDINGS

The committee has, of course, conducted all of its proceedings concerning the subject of this report in executive session. This was done out of a unanimous understanding and appreciation of the need to be responsible in our method. We have had access to the most sensitive information which nations can possess. We heard from individuals whose very lives were in the balance because of their past involvement in these activities. All of the members of the committee felt a deep sense of personal responsibility for the actions of the committee and, on the whole, we met that challenge by establishing what I consider to be a remarkable record of security during our deliberations. Each member exercised great restraint considering the length and depth of the proceedings on this issue. For security reasons, some information must remain secret. But, because of the attention given to the issue and the questions raised, a report to the American people seems essential to overcome any brooding shadows which may remain. We would not have served our citizenry well had we left them totally in the dark on these activities. I decided to support release of the report, however, only after assuring myself that such release would in no way impair our national security. The committee has engaged in long and deliberate consultation with the various agencies who are referenced in the report in order to come to agreement on what had to be deleted to avoid harming legitimate intelligence activities of an ongoing nature. These negotiations have led to massive deletions from the original text in an effort to accommodate the needs of intelligence with the needs of the public.

In concluding that American citizens should be advised to the fullest extent possible of the activities of its Government full consideration was given to the probability that the revelation of these activities most likely will be embarrassing to our country. Great care was given to differentiate between embarrassment and real harm to national security.

It is my judgment that our country is great enough and our people hearty enough to sustain embarrassment when such is called for. And perhaps the embarrassment itself will provide us with the necessary incentive to take swift and decisive action to prevent the recurrence

of the kind of activities detailed in this report.

I believe further that the legislative response is much more likely to be appropriate if both Congress and the people are informed of the nature and extent of the problems.

The findings of the committee represent a distillation of all the evidence, both documentary and testimonial, compiled by this committee on this highly sensitive issue. We deplore the use of assassination as an instrument of either official or unofficial U.S. policy. Having said that, however, I must hasten to add that it was not and is not the task of this committee to assess blame for these acts. Our investigation into this one area was not conducted as a trial. Our objective has been to ascertain what occurred, how it occurred, why it occurred, under what authority it occurred, and how the decisions were arrived at.

There is no doubt, as the report clearly details, that agents of the U.S. Government plotted the assassination of foreign leaders and in some cases direct action was taken to carry out the plots.

The evidence does not show that any foreign leader was actually slain as a result of these plots.

And, unfortunately, the evidence also is not conclusive as to the question of origin or authority and to what extent, if any, Presidents participated or had knowledge of the plots themselves or the actions to carry them out.

It is not happenstance that this is the case. The doctrine of plausible deniability, the practice of circumlocutory reports, and oral-only accounts of official meetings have effectively confounded all efforts to piece together the complete and accurate story after the passing years, as indeed they were probably intended to do. That is part of the system as it operated that cries for correction.

What Presidents knew and what part they played in these matters is left to the inference of each reader of the report. The available evidence is there. Whatever view is taken on that issue, the system by which CIA actions in this area of inquiry were supposed to be supervised and controlled was grossly inadequate. Agency officials have testified that on occasion they failed to fully or adequately disclose to both Directors of Central Intelligence and to officials above the agency the exact nature of their actions. Conversely, this approach to "briefing" both directors and responsible officials at high levels of the executive branch was, in part, precipitated by the subtle indications of those higher officials that they wanted to be kept insulated from certain "activities," so that they could plausibly deny knowledge.

As the committee notes, blame notwithstanding, the responsibility for the plots must lie with the Presidents. Recent investigations by the Congress—Watergate and the formal impeachment proceeding—have focused on the standard of Presidential responsibility required in areas involving the actions of subordinates. Indeed, during both of the above investigations frequent reference was made to the Madisonian precept,

contained in the Federalist Papers and the records of the Federal Convention, that the President was to be held responsible when he failed to superintend his subordinates. Moreover, superimposed upon this more particular standard was his constitutional duty to take care that the laws be faithfully executed. Thus, whatever else may be said on the question of authorization, the various Presidents involved in the time frame of these plots should have known about them if, in fact, they did not. It is such accountability that supports the fragile underpinnings of a democracy. This conclusion is clearly supported in terms of the constitutional history and framework within which these tragic events occurred.

But, as I have said, it is for each reader of the report to decide for himself where responsibility rests. Our task now is to assume the burden of oversight and act where we may have failed to act in the past.

We have an old saying in my State that "it ain't what you don't know that hurts you; it is what you know that ain't so that gets you into trouble." I think from reading reports around the country and the world a lot of people know a lot of things that "ain't so" about the United States and our intelligence gathering operations. I believe the release of this report will help dispel some of those misconceptions.

I decided to support the release, however, only after being fully convinced in my own mind that the release would do no substantial harm to our intelligence-gathering operation. To substantiate that, I might say that we have had before the committee members of the intelligence-gathering organizations who have testified that up to this time the work of the committee, the information that has been obtained, has caused no serious problem. They cited only one possible instance where one agent that they might have been able to get had decided not to become part of our operation—one that they might. They do not know for sure whether they would have gotten him or not.

So we are not engaging here, in my judgment, in any exercise that is going to cause serious harm to the security of our country.

We are, of course, fully aware of the probability that the release of this report would cause some embarrassment to the United States. We have taken that into full consideration. We have been very careful to delineate between embarrassment and real harm. I personally think that our country is strong enough and our people are hardy enough that we can accept embarrassment when such is called for. It just might be that that very embarrassment will provide the incentive, the spur that we need, in order to take the kind of decisive and swift action that is necessary to provide the legislative framework to prevent these things from recurring.

As has already been pointed out, we did not conduct the hearings as a court. It was not our objective to attempt to fix blame. We simply tried to find out

what occurred, when it occurred, why it occurred, how it occurred, and how the decisions were arrived at that initiated this action.

The evidence, of course, is not conclusive in every respect.

There can be no doubt that this country was involved in plots and attempts to assassinate foreign leaders. There can be no doubt that in at least two instances plans were put into effect to carry out these plots by our own agents.

The question of what Presidents knew, to what extent they participated, is left unclear and is left to the inference of each reader of this report as to where that responsibility is.

But I believe the report is correct, and the findings of the committee are correct, when they say that the final responsibility must rest with the Presidents.

Our responsibility now is to proceed to our own oversight burdens, and the burden of providing the kind of legislative framework that is necessary in order to make sure that our intelligence-gathering operations can operate in the very efficient manner that is necessary but stay within the bounds of what a free and democratic society demands.

Mr. TOWER. Mr. President, I yield 5 minutes to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I thank the Senator from Texas for yielding me this time.

I believe that the painful story that has unfolded in the factual record which is now on the desks of Senators can, in fact, be the source of some important lessons for the future.

Very briefly, I would suggest that these included some new insight into the corrosive effects of the exercise of great power in excessive secrecy without those checks and balances that are designed to guard liberty and to protect our values.

Second; I would suggest that it poses the necessity for Congress to determine the proper role of intelligence agencies within the constitutional system of Government.

Finally, that it poses the need for a new, comprehensive statutory charter for all of the intelligence agencies.

I think viewed in this perspective we can see that the publication of the report does have a clear legislative purpose, for the proposal of that charter for all intelligence agencies is the most useful work that the select committee can accomplish. I think it is the basic justification for the existence of the committee. I believe we are going to have to work very, very hard in the next 3 months to fulfill that purpose.

But the legislative purpose is also served by the mere factual record which is set forth as a part of this report.

In the course of this examination and this investigation, as Senators have heard, we have examined witnesses, we have examined many documents. I believe constitutional government requires more than rhetoric. It requires some rendering of accounts, accountability. That is really the definition of this report.

On the question of publication, I would refer you again to the

said that knowledge will forever govern ignorance and people who mean to be their own governors must arm themselves with the power which knowledge is.

I believe Madison there spells out a duty which is the very essence of democracy.

This is a darker side of life, a darker side of Government, contained in this report, but life presents us sometimes with hard and difficult jobs. If we are to prevent further erosion and rot we have to face up to the facts as we have found them to be.

Much of what Senators will find in this report is, of course, inconclusive. There ought to be no illusions that even the work done by the Members of the committee and by the very efficient and effective staff that we have gathered gives us any more than some oblique insight into the destructive effect of excessive secrecy on the practice of Government. There is much more here that is of concern to the Congress: Attempts to pervert the press, attempts to invade the literary and academic worlds. If the Congress is concerned about these subjects, it is going to have to stiffen its backbone to consider what was the job to be done in these areas.

Our purpose here was not to damage the intelligence services or injure the reputations of past administrations. What we were trying to do and are trying to do is to stop the erosion of society's values caused by excessive secrecy and by unchecked executive power by making this record just as factual and accurate as possible.

These assassination plots are, of course, profoundly disturbing. But I think we have to recognize they are not unique. They are a repetition of many stories that are familiar in history. I believe they are disturbing because they represent a step backward. History has, in fact, often witnessed the practice of assassination as an instrument to practice or to terminate political power, and history also shows that men and governments have come to recognize the compelling force of ethical principles.

Over that far doorway is the motto novus ordo seclorum, a new order of the ages. But the story that is unfolded in this document is not the story of a new order for the ages. It is the old order, the order that we thought we had abandoned in establishing this Government.

When practiced against a domestic leader, assassination is common murder. When practiced against a foreign leader, assassination is an act of war without even the sorry sanction that war gives to the taking of human life.

I think there can be no place in a world that is striving toward civilization for either practicing or condoning assassinations. I think that principles are impersonal—if they are right for the weak, they ought to be right for the strong—and that moral strength is more enduring than power.

If nations will be guided by these concepts, I think they can avoid some of the lessons of history, that a contrary course brings tragedy not only to the victim of

well. I believe that nothing that is in these pages will be found to contradict the lessons that mankind ought to have learned, that you cannot practice this kind of policy without very grave consequences.

The question has been raised here, and I am sure will be raised in many places, as to whether there will not be grave damage to our country's name in the eyes of our friends abroad and our friends around the world. I think that we will in fact strengthen our country's reputation by making known our efforts at self-correction, and by our adherence to the traditional values and beliefs that the world associates with America. I think that by doing that, we can insure that America keeps its place as a beacon to which men everywhere may look as the best hope for representative democracy on the globe.

The PRESIDING OFFICER (Mr. STONE). Who yields time?

Mr. CHURCH. I yield 5 minutes to the distinguished Senator from North Carolina.

Mr. MORGAN. Mr. President and gentlemen of the Senate: I join with what has already been said by my colleagues, and especially with regard to the objectivity of the committee and the diligence of the committee. I think if you read this report carefully, you will find the substance of some 11,000 or 12,000 pages of testimony set forth in a very objective manner.

At the end of the report, on pages 299, 300, and 301, are set forth three pages of additional views which I have tried to prepare very carefully. I ask unanimous consent that those three pages be printed in the Record at this point.

There being no objection, the additional views of Senator MORGAN were ordered to be printed in the Record, as follows:

ADDITIONAL VIEWS OF SENATOR ROBERT MORGAN

Our Nation needs a strong, secure, and effective intelligence community. Our memory of Pearl Harbor and testimony taken in hearings with regard to that catastrophe as well as testimony taken during these hearings clearly establish the need for a central intelligence agency to coordinate the intelligence gathered by our various agencies of Government. If the United States had had a coordinating intelligence agency in 1941, the disaster at Pearl Harbor would, in my opinion, have been averted. That we have now, and continue to have, such an agency is essential if we are to avert any future threats to our national security. Our national security is, after all else, of paramount importance.

We must recognize, however, that our national security can be subverted by overzealous governmental action as well as antagonistic domestic or foreign agents. Our Nation cannot remain intact if we ourselves subvert our own ideals; consequently, it is as important for our government to abide by them. In the words of U.S. Supreme Court Justice Louis Brandeis:

"Decency, security, and liberty alike demand that governmental officials shall be subjected to the same rules of conduct as the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. If the government is a lawbreaker, it breeds con-

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

tempt for the law; it invites every man to become a law unto himself; it invites anarchy. To declare in the administration of [a democracy such as ours] the end justifies the means * * * would bring terrible retribution. Against that pernicious doctrine, [we] resolutely set [our] face."

It is argued, and in many cases justifiably so, that in dealing with our national security, and especially with hostile or adversary forces abroad, extraordinary means are necessary. So long as the Soviets maintain KGB agents around the world, we must maintain an effective intelligence gathering capability. However, this report deals with a particular activity of the government, which in the absence of armed conflict, would, if true, shock the conscience and morals of most Americans. That this investigation was necessary was unfortunate, but it was made so by the broadly circulated and printed reports of alleged assassination plots, some of which were given credence by public statements by various officials. It was my belief in the beginning, and still is, that it would be far better to ascertain the truth as far as possible, and clear the air, to the end that our intelligence agencies could get back to their assigned tasks.

I have weighed in my own mind for many days and nights how much of the information contained in this report should be made available to the American public and thus to the world, including our potential adversaries. That the public has a right to know is incontrovertible, but whether that right extends to information which could damage our image and national security is not so easily determined. Is it satisfactory for the members of the Congress, the duly elected representatives of the people, to hold such information in trust for the people? In some cases of national security the answer can and must be "yes", and in the future, such information must be held by competent and aggressive oversight committees.

In the present situation too much water has gone over the dam for such secrecy and to refuse to make as full and complete a disclosure as is consistent with the safety and protection of our present intelligence personnel would only add to the intrigue, and the issue could not be put to rest. So though I have in some instances voted with some of my colleagues to retain much information in executive session, I have concurred with the issuance of this report after being assured that the release of it would not violate any law with regard to classified matter and after the respective agencies have had another chance to recommend exclusion of extremely sensitive matters.

Throughout the hearings one issue has remained paramount in my mind. If the alleged acts happened, were they the result of over-anxious, over-zealous intelligence agents who were acting like "a rogue elephant on the rampage", or, were they basically the acts of responsible, well-disciplined intelligence agents acting in response to orders of "higher authority"? To me the conclusion is important. If the first is true, then the agencies must be revamped or possibly dismantled and new agencies created to replace them. If the second is true, then clearer lines of authority must be established and stringent oversight by the duly elected representatives of the people must take place.

During the course of these hearings, I have been impressed by the belief held by the principals that those illegal and immoral acts engaged in by our intelligence agencies were sanctioned by higher authority and even by the "highest authority." I am convinced by the large amount of circumstantial evidence that this is true. Although illegal and immoral activities carried out by our intelligence agencies cannot be justified by any argument, it is, I think, important to note that these actions were carried out in the belief that they were sanctioned by

higher authority, even though this Committee has been unable to establish whether or not presidential authority was given.

Some of the acts conducted by these agencies could have been, and probably were, beyond the scope of the projects authorized. In addition, the agencies may have conducted other activities which, in spite of this investigation, are still unknown to this Committee. Thus, they cannot be absolved of all the blame.

Since our intelligence agencies act on both a compartmentalized and need-to-know basis, it is difficult to establish in retrospect who was informed and what authority was given. It is also difficult to establish what was told to those who were informed since circumlocution was also a standard practice within the chain of authority. The practice was, after all, adopted to insure official deniability as well as to acquire consent. And the effectiveness of these techniques of "need-to-know" and "circumlocution" is attested by the fact that this Committee not only has been unable to establish whose consent was given but has also been unable to establish who was not involved. We have been able to establish neither responsibility nor innocence. In this situation, the presumption of innocence cannot be applied without question, since the mere willingness to participate in circumlocutions briefings implies a willingness to deny responsibility at crucial times. Consequently, I also believe that responsibility for the illegal actions of our intelligence agencies must be shared; it should not be carried entirely by our intelligence community.

In drafting legislation to circumscribe the activities of intelligence gathering agencies, I would stress the need to guarantee their ability to function effectively in our complex and dangerous world. The effectiveness of our intelligence agencies must not be limited solely by sound and practical applications of law drafted with clear objectives in mind. We must know what we want our intelligence agencies to do and what we do not want them to do. Then we can confidently allow them to function in the knowledge that they will not only defend the law but abide by it. Only in that way can we be certain that our society will be preserved as an embodiment of our openly democratic ideals. Although we must have intelligence, we also must preserve our open society, for to destroy the latter for the sake of the former would be a complete perversion of our goals.

While we may realize that investigations of this nature into sensitive governmental actions in effect strengthen our country, we would be foolhardy to think for a moment that our enemies, and perhaps even friends, will openly acknowledge this significant accomplishment. We can assume, for instance, that our opponents will go to great lengths to publicize and distribute propaganda based on this report inimical to the best interests of the United States. That this, in fact, will be done only serves to reinforce my belief that we need, and must have, as strong an intelligence capability as possible. And while this Committee is charged with the responsibility of investigating and reporting on the misdeeds of the Central Intelligence Agency, we cannot reveal the details of the many meaningful accomplishments of the Agency which without a doubt have been beneficial to our country. That we have such an agency now, that we maintain our intelligence potential in these times of continuing international tension is essential to our society and continued existence as a nation.

The release of this report, based on the public's right to know, does not compromise our right to be secure. The report details only the actions of Agency employees in the cases under investigation and does not unnecessarily reveal confidential intelligence sources and methods. One can, however, successfully predict the impact the report will

have in the news media. A review of previous revelations concerning assassinations which have appeared in the press have gone a long way towards sensationalizing this country's involvement in assassination plots. This report confirms some prior public allegations while it disproves others. While some may shudder upon learning that the events related in the report actually took place, we can all take great pride in the ability of this country to look frankly at problems within our system of government, and accordingly, in our ability to govern ourselves. History will undoubtedly record our ability to openly reveal and discuss improper, unpopular governmental actions as one of the basic elements in the continued existence of our free society and the general ability we, as a nation, have achieved to subject ourselves and our government to the rule of law.

Mr. MORCEN. In addition to that, let me say just one or two things.

I join especially in the comment of the distinguished Senator from Tennessee with regard to the facts and the evidence as he has observed them, and especially in the comments of the Senator from Minnesota (Mr. MONDALE) with regard to his very keen observations concerning the need for a Central Intelligence Agency, and also the need for some degree of secrecy.

As we have gone about our duties throughout these several months, there has been one question paramount in my mind. That question is this: Were the events which we have all found shocking to the morals and consciences of all Americans committed by agents of the Central Intelligence Agency on their own and without authority, acting irresponsibly, or were they in fact acts which were committed by a well-disciplined intelligence organization acting under the justified belief that they were carrying out orders of higher authority?

I think the answer to these questions is important. For if the answer to the first is affirmative, then we must, in my opinion, reorganize and revamp the Central Intelligence Agency, if not in fact dismantle it and start again. But if, on the other hand, the answer is "no" to the first and "yes" to the second, that is, that they acted in the belief that they were carrying out orders of higher authority, then I think we are compelled in this Congress to strengthen the guidelines under which the intelligence agencies operate, and the oversight that Congress must maintain.

From listening to all of the evidence and observing the witnesses as they testified before us, I have concluded from that evidence that, by what we in law would call its greater weight, the principals in the events that we are talking about acted in the firm belief that they were carrying out orders of higher authority, and I am satisfied in my mind that they were justified in that belief.

That is not to say that I believe that every single act carried out by the Central Intelligence Agency was authorized by higher authority, but it is to say that I think the overall planning was authorized by higher authority, or at least the principals were justified in believing so.

That being true, I believe it devolves upon us now to legislate change, not only in outlawing assassinations, which, as I say, have shocked the consciences and

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

morals of every freedom-loving American, but also it becomes incumbent upon us to make sure that we maintain strict oversight over these agencies.

I find, Mr. President, as a whole, that the members of the Central Intelligence Agency and the other intelligence agencies are highly dedicated and competent individuals. I have said many times throughout this investigation that while I am extremely concerned about the events that we have disclosed to you here this morning, I believe more strongly than I ever have that the real threat to the national security of this country and to the individual freedoms and liberties of the people of this country comes not so much from the Central Intelligence Agency, but from the abuse of power and the misuse of power by the Federal Bureau of Investigation and possibly the Internal Revenue Service.

So as we proceed with the next 3 months of this investigation, I hope you will be just as aware and just as attentive to what is going on as you have seen for the last 9 months.

Thank you, Mr. Chairman.

Mr. TOWER. I yield 5 minutes to the Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, first, I would like to compliment the chairman of our distinguished committee, the Senator from Idaho (Mr. CHURCH) and the vice chairman of our committee, the Senator from Texas (Mr. Tower) for their very great leadership and very fair and equitable handling of some very difficult and complex problems. Second, I would like to compliment the staff for their dedicated zeal in the effort that really made this very tedious and painful job possible.

I join with my colleagues on the Senate Select Committee on Intelligence Activities to present to the Senate a report entitled "Alleged Assassination Plots Involving Foreign Leaders." The investigation which led to this report has been long and difficult. I believe the committee report accurately reflects the evidence uncovered, and I concur with the committee's findings and conclusions. Thus, I would like to address these remarks to the question of why this report should be made public.

The Select Committee voted without dissent to make the report available to the public. I strongly support that judgment. This decision was made after 9 months of taking testimony from over 100 witnesses, reading literally hundreds of documents, spending many hours discussing findings and formulating recommendations. It was made after extensive consultations with the executive branch, including meetings with representatives of the Defense Department, the State Department, and the CIA. These discussions enabled the committee to insure that no sensitive sources and methods of intelligence gathering were included and compromised. It was made after the committee examined the present circumstances of each individual who figured in this report, deleting the names of many and disguising others by the use of aliases, so that no one's life or livelihood would be threatened.

In short, the decision to make this

report public was made against the background of the fullest possible study of the issue.

But some might say that the securing of sources and methods of intelligence gathering and the protection of individuals is not enough. They say that the report should not be published because it would embarrass the United States and hinder our Nation in the conduct of its foreign affairs.

There may be temporary injury, true. But I believe the countries of the world will recognize that our willingness to examine our past and seek a better future openly, without finching, is an indication of the greatness of our country. In our effort not to offend, we could suppress this report, but our Nation is admired in proportion to the openness of our society. Withholding this report from the public would more closely resemble the practices of totalitarian regimes, who are haunted by the disparity between their public faces and their private souls, than it would the history of this great land.

Even more important than the impact of this report on other nations are the effects of its publication here at home. It is these ultimate positive effects on the Nation which led me to join with the committee in its approval of the publication of this report.

The publication of this report will:

First, clear the air. The innuendo, charges, piecemeal and self-serving disclosures, have provided an incomplete and distorted view of what individuals and Government agencies did, and what they did not do.

The publication of this report will discourage similar occurrences in the future. Great power, and the serious abuses which flow from it, flourish in secrecy. Government officials with such power will hesitate to use it for illegal or unethical conduct if they know that some day their actions will be exposed and that they will be held accountable. Thus, public disclosure is yet another check in our system of checks and balances.

The publication of this report will renew public faith in Government. The public has been ignored, or deceived, too long. The public needs governmental recognition of their right to know, and governmental acknowledgment of the importance of honesty and candor. The public will not stand for yet another coverup.

The publication of this report will allow the public to make up its own mind; not the Senate, not Congress, not the President, not the CIA—the public. Without the information contained in the body of this report, the public could not possibly judge either the conclusions or the recommendations of this committee or whatever legislative action that we are going to take in the future in this area.

The publication of this report will encourage public participation in the legislative process. Congress will soon be considering legislation concerning not only assassination, but also executive and congressional oversight of the intelligence agencies. This detailed report provides a basic understanding of the very special problems of this important and highly

secret agency and the other agencies as well. Such an understanding is absolutely necessary if the public is to be a participant instead of a bystander in the dialog about the CIA and other intelligence agencies' future.

These are among the positive benefits of publishing this report. I do not need, I believe, to belabor the point that democracy depends upon the accountability of public servants. And accountability rests upon knowledge. Thus, the public's right to know is central—is fundamental—to our very form of government. As James Madison wrote:

A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or perhaps both. Knowledge will forever govern ignorance. A people who mean to be their own governors, must arm themselves with the power which knowledge gives.

The report should be made available so that the public will know what has been done in its name. Without such a report, the people could not understand their past, nor would they be able to design a better future. The great American philosopher Santayana once wrote:

Those who do not remember the past are condemned to relive it.

The assassination attempts by our Government are a shameful part of American history. They must be condemned. They must not be repeated. As they were a product of secrecy, public disclosure will assure that they will never happen again.

Mr. CHURCH. Mr. President, I yield 5 minutes to the Senator from Colorado.

Mr. GARY HART. Mr. President, shortly after taking office, President Eisenhower asked a citizen commission to study the status of the intelligence community in this country. In September 1954 that commission reported back to the President and its chairman, General James Doolittle, in statements contained in the introduction of that report, stated as follows:

... another important requirement is an aggressive covert psychological, political and paramilitary organization more effective, more unique, and, if necessary, more ruthless than that employed by the enemy. No one should be permitted to stand in the way of the prompt, efficient and secure accomplishment of this mission. ...

... It is now clear that we are facing an implacable enemy whose avowed objective is world domination by whatever means and at whatever cost. There are no rules in such a game. Hitherto acceptable norms of human conduct do not apply. If the U.S. is to survive, long-standing American concepts of "fair play" must be reconsidered. ...

... It may become necessary that the American people be made acquainted with, understand and support this fundamentally repugnant philosophy.

Mr. President, we have sowed the wind and we are reaping the whirlwind.

That philosophy articulated in that report has dominated the intelligence community in this country the last 20 years, and today we are seeing its results.

Our committee did not choose to get into the assassination question. But we had no alternative once the facts began to emerge but to inquire into those facts.

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

and we had no alternative but to follow those facts wherever they might lead.

Mr. President, if this report represents anything, it is the fact that the truth cannot and will not be hidden. What have we found as a result of 9 months of work? We found chaos, we found failure of control, we found expediency, and worst of all, we found abandonment of the democratic principles upon which this Nation was founded.

It is tragic and ironic that upon the eve of the celebration of the 200th anniversary of this Nation its greatest deliberative body would sit here today discussing matters of this sort.

I point out that this is, first of all, an interim report. None of us believes that this report contains all of the facts. For myself, I am not sure that all of the facts will ever be known. In a footnote at page 131 of this report, Senators will find a matter that only recently came to our attention that a middle-level CIA official requested the establishment of something that he called a "Health Alteration Committee" to deal with an Iraqi colonel, presumably to eliminate him merely because he did not agree with our foreign policy in his nation or in fact balked at some of the activities that we wanted to pursue.

Information of this sort will continue to come out over the years, and I am not sure the American people will ever entirely know the truth.

One other fact I think is important. We are looking at the entire intelligence community. As our distinguished colleague from Missouri (Mr. Symington) has pointed out on many occasions, the CIA in dollar terms only represents about 15 percent of this entire community. The information that we develop about other elements of this community will be brought out in our final report.

There is one other element that I think is important for us particularly here today to note, and that is there is a tendency when things go wrong or unhappy facts come out for the politicians of this country to point their finger at the people who carry out orders. But if this record shows anything, Mr. President, it shows that the politicians in the White House, in administrative positions, were themselves as guilty as the operatives who carried out many of these activities, and the Congress of the United States over the years, I think, must bear equal blame for not exercising its proper role of oversight and responsibility, and that is the matter that not only our committee, but every Member of this body will have to answer for eventually.

I add one word to that which has been said by many of our colleagues. We had a staff of 100-some individuals, collected under an atmosphere where people in the press and in this body itself said we could not put together a staff which would act responsibly and even the members of the committee themselves could not act responsibly. I took the floor several days ago to point out there had been leaks, but there had not been at that time one leak that was attributable to the committee members or the staff that we had collected.

Unfortunately, since that time, there

has been an instance in which, in my judgment, someone in our committee or on its staff has leaked information, but not to the jeopardy or detriment of the national security of this country.

Mr. President, Congress itself has been on trial—the question of whether Congress could exercise investigative responsibility in an area of the utmost secrecy and delicacy and carry out that responsibility in the manner that it has been carried out. I think our committee and the Members of this body should be proud of the work that has been done here, and all done under the umbrella of national security.

I was appointed to this committee less than 30 days after I took the oath of office. In the 9 or 10 months that have passed since that time, I have become aware that whether I serve here 5 more years or 50 more years, the work that this committee does may be the most important think in which I will have an opportunity to participate. The work that the committee presents to you, the Senate of the United States, will be among the most important of the issues that any of you will ever face.

There is a saying from the Bible:

You shall know the truth, and the truth shall make you free.

Ironically, that motto is found on the walls of the Central Intelligence Agency.

Mr. CHURCH. Mr. President, I should like to stress one or two other matters, and I will be brief.

First of all, this committee faced the choice, when it began this unpleasant duty of investigating the assassination allegations, of whether to conduct its hearings in public or in executive session, behind closed doors. I do not believe that any member of the committee had any doubt that a long series of public hearings, featuring these many witnesses, and telecast to the four corners of the globe, for weeks and months on end, would have constituted unprecedented political box office. But it would have done this country grievous damage. So we refrained from holding any public hearings on the matters that are taken up and discussed in this report.

However, from the beginning it was understood—and the committee twice, by its vote, affirmed—that at the end of the investigation a report would issue. That was understood by the President and all those of the White House staff with whom we worked. That was understood at the CIA. At the 11th hour, after the work of the committee had been done, a number of road blocks were thrown up in an attempt to keep this report concealed. The very last of those road blocks had to do with certain names contained in this report.

Senator Tower has already told you how carefully we went through this report with agents of these very agencies to exclude any name that, in the judgment of the committee, should be deleted, or any reference that in any way might expose intelligence sources or any other matter relating to the legitimate national security interests of the United States.

Of those names they asked us to exclude, we excluded 20, and that left about

9 where the committee took a view different from that of the executive branch. I can explain each of those nine, but I will just give you some idea why the committee took a different view, by citing a few examples.

One such example is Mr. Dearborn, who is named in the report. He was the ranking U.S. official in the Dominican Republic where the assassination of Trujillo occurred. He was in close and continuous contact with the assassins, even transferring weapons, and has identified himself publicly by writing a letter to the editor of the Washington Post on the assassination.

A second, Conein, was the contact with the assassins in another country, South Vietnam, and his role was fully publicized when the Pentagon papers were published. Indeed, the reference to him by name in the report helps to clarify the fact that the United States never intended the assassination of Diem. Three others—Harvey, King, and Tweedy—were high-ranking CIA officials who helped develop detailed plans for the assassination plots. Two of them held policy-making positions, and their role is so intricately interwoven into this report that to exclude their names and positions would be to render the report incomplete.

Two others are Vaux and Valenzuela, who are foreigners. They were convicted by military tribunals for their roles in the pilots in their own countries.

Three others were members of the Mafia. John Roselli was a Mafia leader who, contacted by Mayheu, participated with the CIA in several attempts against the life of Castro. His appearance before the committee was highly publicized, not by the committee but by the press. His role has been commented on extensively in the press on numerous occasions. Another is Santos Trafficante. He was a Mafia chieftain with gambling interests in Cuba who was used by Roselli and Mayheu to locate the Cubans to carry out the assassination plots and was a principal in the conspiracy.

The final name was Robert Mahen, himself, who was the CIA's contact man with the Mafia. He testified before the committee and, indeed, afterward he held a press conference in which he discussed his role.

So we believe that in those cases where we have exercised the judgment to leave these names in the report, we have done it judiciously and that this, above all else, should not be a reason for objecting to the release of the report at this time.

Mr. TOWER. Mr. President, I yield myself 2 minutes.

Generally speaking, although what the chairman says is correct, that some obstacles were thrown in the way of the investigation, we probably got as much cooperation as we reasonably could expect.

I note that it was not so much hesitance in disclosing matters to the committee as in making those matters public. I think that has been the primary concern of the various agencies with which we have dealt—not that they did not want to cooperate with the committee and disclose sensitive matters to the committee, but that they did not want

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

the matters further disclosed to the public. It is important to make this information public because, generally speaking, I think we have had a pretty good level of cooperation.

I must say that Mr. Colby has been extremely cooperative. He, of course, objected to our publication of this report, which I think is normal under the circumstances. But I do not believe that at any time he withheld anything from the committee in an effort to impede its investigation.

So again I think the point should be made that the question is: What do we make public? What is of such sensitive nature that it should not be made public? I think the Members of the Senate and the Members of the House have a right to know, on a need-to-know basis, anything that the intelligence community has. But I think that we, ourselves, must be very judicious in what we reveal to the public. We will be facing up to this awesome responsibility in the days to come, in our continuing investigation.

I stress what Senator HART mentioned—that is, that this is an interim report, that our work is not yet done, and we are currently engaged in looking into the matters that I think prompted Senate Resolution 21 in the first place, which launched this investigation, and that is in the area of domestic abuse. I believe this is the area of perhaps greatest importance.

So I want to make sure that you have everything in perspective and know that this committee has not been dealing only with assassinations. This is only part of it. This is perhaps a less important part of it than what is done in the domestic area, in the way of abuse, that infringes on the rights of American citizens.

Mr. President, I yield 10 minutes to the Senator from Michigan.

Mr. GRIFFIN. I thank the Senator from Texas.

Mr. President, I did not rise to speak to the question of the wisdom of releasing this report to the public but, rather, the question of the procedure by which it would be done if the decision is made.

I should like to prevail upon Senators to refer to the Standing Rules of the Senate and turn to rule XXXVI, particularly sections 3 and 5 thereof, and I think we can bring into focus the question I want to raise.

That is rule XXXVI of the Senate, particularly sections 3 and 5. I take it that no one would question that this report contains information which was provided by the President or heads of departments of the executive branch in classified form. The basic question is whether or not that material is to be made public and, if so, how is it to be made public by what procedure? Let me just fill in here by calling attention to a letter dated October 31, addressed to Chairman CHURCH, from the President of the United States, to which reference has already been made. I want to focus on a couple of sentences.

I have endeavored to make available all the material in the executive branch on this subject to the Select Committee of the Senate and the House and the Department of Justice. This was done under procedures de-

signed to serve the national interest. The President said, "You will recall that I said on June 9, 1975, 'I know that the Members of Congress involved will exercise utmost prudence in the handling of such information.'"

The President goes on in his letter to the chairman of the committee:

It is not a question of withholding information required by the Select Committee to carry out its inquiry into these allegations, which relate entirely to past administrations of both parties. On the contrary, I have endeavored to make all of the information available to your committee so that legislation can be proposed, if necessary, and to the Justice Department to facilitate any investigation indicated. However, we must distinguish between disclosures to the Select Committee of sensitive information and publication of that information which is harmful to the national interest and may endanger the physical safety of individuals. There is no question about the access to these materials by appropriate officials. The only issue concerns publication, which obviously cannot be limited to Members of Congress or other American citizens.

Then, if you will read with me from rule XXXVI, the very first clause of section 3 reads as follows:

All confidential communications made by the President of the United States to the Senate shall be by the Senators and the officers of the Senate kept secret, and all treaties which may be laid before the Senate, and all remarks, votes, and proceedings thereon shall also be kept secret.

Notice the word "also," which indicates that the second clause is a separate clause from the first clause. But even in the case of treaties, it says

... until the Senate shall, by their resolution, take off the injunction of secrecy, or unless the same shall be considered in open Executive session.

Even more pertinent is section 5 of rule XXXVI.

Whenever, by the request of the Senate or any committee thereof...

And these materials were provided in response to the request of the committee—

... any documents or papers shall be communicated to the Senate by the President or the head of any Department relating to any matter pending in the Senate...

The CIA investigation by this committee was a matter pending in the Senate—

... the proceedings in regard to which are secret and confidential under the rules, said documents and papers shall be considered as confidential, and shall not be disclosed without leave of the Senate.

I raise this question because I think it is a very, very fundamental question. As I understand the situation which is being presented, it is that unless the Senate takes some affirmative action to overrule the action of the select committee, this report will be made public.

I submit that would be not only in violation of the rules of the Senate but a very bad precedent. If we were to do this—and maybe it should be done—it is certainly one of the most basic and fundamental decisions that is going to be made in the service of any of us in this body.

It is going to have a profound impact on our relations. It will have a profound impact, I suggest, on the ability of the executive branch, of the President, under any administration of either party, in his relationship with Congress, if he cannot assume that confidential information requested of him and delivered on a classified basis will be treated as classified information, at least in accordance with the rules of the Senate itself. And certainly, it will have a profound impact on the ability of the President of the United States to deal in international affairs with other nations.

It is not enough to say, yes, but you can make a motion here, in the Senate, in closed session, to deny the committee the right to publish this report. If we accept that, then we have said that any committee or any subcommittee of the Senate, from now on, has the right to make public any classified information provided by the executive branch.

Mr. PASTORE. Will the Senator yield for a question?

Mr. GRIFFIN. I gladly yield.

Mr. PASTORE. Will the Senator agree that the Senate itself has the right to remove the secrecy and authorize the ad hoc committee to publish the report?

Mr. GRIFFIN. I think that section 5 is right on the point.

Mr. PASTORE. In other words, what you are actually saying is that the committee, on its own—

Mr. GRIFFIN. Does not have that authority.

Mr. PASTORE (continuing). Must have to report back to the Senate with their recommendations.

Mr. GRIFFIN. That is right.

Mr. PASTORE. But it is up to the Senate to authorize the publication of it.

Mr. GRIFFIN. And it is an obligation under the rules that the Senate itself, as a whole, cannot duck.

Mr. PASTORE. I think the Senator is right. Otherwise, we would be setting a bad precedent, and I think we can do it.

Mr. GRIFFIN. We had this kind of question arise in the Committee on Foreign Relations, having to do with classified documents relating to the Sinal agreement. The committee inadvertently, I would say, because I do not think we were adequately aware of the rules of the Senate when it was done, without any improper motive, whatsoever—and I attribute no improper motive, incidentally, in this situation, either. We can have differences of opinion as to what the rules should require.

In that instance, classified documents which had already appeared in the New York Times were made public by a committee vote. But, afterward, the committee itself recognized that they had made a mistake and that the action taken by the committee was not in accordance with the rules, and it so indicated. At least, that precedent was not established, because the committee, itself, acknowledged that it had not acted in accordance with the rules of the Senate.

I just want to emphasize the importance here of not allowing this to be made public without compliance with the rules of the Senate.

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

I will say this: As I think, I should have a difficult time voting today, not having had a chance to read this report at all, on the question of whether the Senate should authorize it to be made public. I think Senators ought to have an opportunity to read and to study it and to deliberate, to some extent, on the very, very fundamental question involving national security and national interest, as to whether this document should be made public. It may be that in the end, I shall vote to make it public. But I should think that it would be the better part of wisdom to delay this decision until after the recess and to give Senators an opportunity to be fully cognizant and aware of what they might be doing.

Mr. CURTIS. Will the distinguished Senator yield for a question?

Mr. GRIFFIN. I am glad to yield to the Senator from Nebraska.

Mr. CURTIS. Is what the distinguished Senator saying that a committee cannot release secret information unless the Senate affirmatively grants permission for it?

Mr. GRIFFIN. I have a difficult time reading section 5 any other way, I say to the Senator from Nebraska.

Mr. CURTIS. In other words, the absence of a motion denying the committee the right to release it would not suffice, would it?

Mr. GRIFFIN. Absolutely not.

Mr. CURTIS. I think the penalty referred to in section 4 or paragraph 4, whichever it is, of rule XXXVI is so severe—

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. TOWER. I will yield 5 additional minutes to the Senator from Michigan.

Mr. CURTIS. I believe we should handle this in strict conformity to the rules, otherwise the committee or those members of the committee who do release it would be facing a very embarrassing situation.

Mr. GRIFFIN. I thank the Senator for his contribution.

I will be glad to yield to the Senator from Alabama.

Mr. ALLEN. I think we might inquire of the chairman if this committee report may not possibly be in the hands of the media now in view of the embargo printed here on the outside indicating they have got a right to move it starting at 4 o'clock this afternoon?

Mr. CHURCH. First of all, I am in complete disagreement with the argument being made about the rules of the Senate and their applicability in this case, and we are prepared—

Mr. THURMOND. Will the Senator speak louder; we cannot hear him?

Mr. CHURCH. I am in complete disagreement with the argument being made that our proceedings here are in any respect contrary to the rules of the Senate.

We have investigated this very thoroughly. We have conferred with the Parliamentarian; we have received his opinion based upon the precedents, and we are prepared to argue the case.

Now, we are prepared to show, based on the precedents and the opinion we

have received from the Parliamentarian, that this committee was given the authority to issue this report, and the rules of the Senate being referred to here are not being interpreted properly by the distinguished Senator from Michigan. They do not, in the circumstances, preclude the committee from issuing the report, on its own authority. We have looked into this very carefully.

If the Senate wants to vote no confidence in the committee and enjoin the committee from issuing this report, it may do so. But it takes an affirmative act of the Senate to do that. It is always within the Senate's power. For that reason, although these reports are out on the Senators' desks and, as practical public men we know the difficulty, following this session, of preventing the contents of the report from being disseminated—

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. CHURCH (continuing). Nevertheless, in deference to the Senate, we have refrained from circulating the report to the press until we have first had an opportunity to come to the Senate and make its contents known to the Senate. But we do not accept the proposition laid down by the Senator from Michigan, and we are prepared to refute it.

Mr. PASTORE. Is the Senator saying that the original resolution gives him that authority?

Mr. CHURCH. Yes.

Mr. PASTORE. I would like to hear the argument as to why it does.

Mr. CHURCH. I yield to Senator Mondale.

Mr. MONDALE. I would like to respond to this.

Mr. TOWER. Mr. President, is this on the time of the Senator from Idaho?

The PRESIDING OFFICER. Yes, it is.

Mr. MONDALE. This executive session was called under the unanimous-consent agreement propounded by the majority leader, not for the purpose of acting on the report, but for the purpose of hearing it. We thought out of deference to the Senate and in view of the delicacy of this matter that it ought to be heard first by Senators before it is released to the public. It is not here to be adopted or approved. It is here to be heard. That is the nature of this meeting.

The suggestion was made by the Senator from Michigan that under rule XXXVI, since this report was based in part upon some classified information obtained from the executive department, it may only be released under that rule by an affirmative vote of the Senate.

We have checked with the Parliamentarian and it is his opinion that rule XXXVI refers to private communications that are presented to the Senate as a whole in, say, the course of deliberations with respect to a treaty, and matters of that kind that are considered in executive session. Under those circumstances you have to vote to release it. But he said that matters that go routinely before committees, which are often classified, can be released by those committees in their normal function.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. MONDALE. Yes, I yield.

Mr. PASTORE. Why did we have to have an executive session today if you are going to release it anyway? If you are not seeking the approbation of the Senate in what you are doing, why did we come here in secrecy to begin with? Why did we not have an open meeting?

Mr. MONDALE. Two things: First, there are many matters that could be asked about that could only be answered in executive session and, in deference to the Senators—

Mr. PASTORE. Answered by whom, by the Senate?

Mr. MONDALE. Well, by experts—

Mr. MANSFIELD. By the committee.

Mr. MONDALE. By expert people, dealing with some aspects not necessarily stated in this report, matter that could not be answered except in executive session.

Second, out of deference to the Senators, in light of the highly delicate nature of this matter, it seemed only proper that a thorough briefing of our colleagues be made.

Now, the Senate resolution, which was the product of the distinguished Senator from Rhode Island, confers upon this committee the authority, indeed requires of this committee, that is the Committee on Intelligence, that it shall issue a final report. Moreover it may—it has the authority—to issue such interim reports as it deems appropriate. Therefore, according to the Parliamentarian, this rule does not apply, it is meant to deal with a different situation.

Another point is this: If we accept the interpretation of the Senator from Michigan, I want you all to be familiar with the new rule we have established. Every time the Armed Services Committee issues any report that is based directly or indirectly on confidential or classified information coming from the executive branch, it will first have to come to the full Senate to get approval for its release. The same goes for NASA, the Space Committee, Foreign Relations or anyone else. It will mean that whenever the executive branch wants to bottle something up, they will take a stamp out of the lower left-hand drawer, stamp it "top secret," and send it to you classified. It will be a new Official Secrets Act of a kind we never had before. It will give the executive branch power they never had before, power binding not only upon the executive, but upon the Congress itself. It will destroy Congress power and responsibility of informing the public. I cannot think of any ruling—

Mr. PASTORE. Mr. President, will the Senator yield to me?

Mr. MONDALE. Yes.

Mr. PASTORE. I am for the release of this report 100 percent.

Mr. MONDALE. Correct.

Mr. PASTORE. And if this rule is being used, the recitation of this rule, to get into a filibuster, then all bets are off. But I thought it would be a very nice thing for the public to know that JOHN PASTORE and everybody else in the Senate are for the release of this publication. That is the only reason why I raised the question.

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

I would like to be a party to it, and I would hope we would not filibuster this, and we could get a unanimous-consent agreement to vote at 1 o'clock, and I am all for that, and then we are all in on it; and that is the reason why I raised the question.

Mr. MONDALE. The Senator is right. However, I do not hear the Senator from Michigan saying that. The Senator from Michigan is saying that we cannot release this report until the Senate votes to release it. That is an entirely different thing. If the Senate wants to vote—

Mr. MANSFIELD. That is not so.

Mr. MONDALE. That is what the Senator from Michigan is saying. He says the only way it can be released is to vote to release it. That is not what the rules say. I predict that if we get onto that track and the report is not released, it will be leaked all over town in the worst possible way. We are going to be charged with a coverup, and moreover we will come dangerously close to a new precedent that means every time an executive official puts a secret stamp on something that comes up to a committee you have to get Senate approval to release it.

Mr. MANSFIELD. Mr. President, will the Senator yield.

Mr. MONDALE. I yield.

Mr. MANSFIELD. Mr. President, I am in complete accord with what the distinguished Senator from Minnesota said. You cannot keep this secret. After all, I believe the Senate unanimously created the committee which is now reporting to the Senate as a courtesy and as a duty, and I certainly hope there is no indication on the part of any Senator to hold back the publication of this report, because it will go out with or without action by the Senate this afternoon, and if you think you can keep this secret now you are mistaken.

So I am delighted that the Senator from Minnesota said what he has said. I hope the Senate as a whole will recognize its responsibility and not throw any roadblocks in the path of this interim report.

Mr. MONDALE addressed the Chair.

Mr. GRIFFIN addressed the Chair.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. Ford). The Senator will state it. He has the floor.

Mr. MONDALE. Is it the opinion of the Parliamentarian that this report and its contents were not within the rule XXXVI in terms of the requirement of affirmative Senate vote?

The PRESIDING OFFICER. It is the opinion of the Parliamentarian that this does not apply under rule XXXVI, paragraph 5, because it is not a communication from the President of the United States to the Senate.

The second part of the rule says: To the Senate—not to the Senator or the committee.

Mr. GRIFFIN. Mr. President, may I now be recognized for the remainder of my time?

Mr. TOWER. Mr. President, I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, with all due respect to the Parliamentarian, I find that to be an incredible interpretation of section 5.

In effect, the ruling is that a committee or subcommittee—or a committee, rather, of the Senate can rise above the Senate itself and would have more power than the Senate would.

The effect of the ruling is to say that if the President had addressed and delivered the confidential information to the Senate rather than to the committee, that then only it could have been made public, only by action of the Senate.

If the Senate is required as a whole to make public information of information directed to the Senate, how in the world can we say that a committee has more power than the Senate as a whole?

And that is the effect of the ruling of the Chair.

Rather than to have that kind of precedent established—and I am sure this is an unprecedented situation—rather than to leave the Senate in a situation where we are saying, in effect, that a committee has the power to make public classified information, I ask unanimous consent, even though I personally prefer we not vote until after the recess, I do not want to be put in the position of having that important rule of the Senate brushed aside on the theory that I am trying to filibuster, that is not the case, I will vote today.

I will ask unanimous consent we vote at 1 o'clock on a motion in accordance with section 5, XXXVI, to give leave of the Senate to make this report public.

I may vote against it, but I will make the motion.

Mr. CHURCH. Mr. President, reserving the right to object, and asking for an opportunity to reply, it is a grave misrepresentation to suggest that the Parliamentarian's ruling in any way implies that a committee, let alone this committee, but that any committee of the Senate has powers that exceed the power of the body.

That is not what the Parliamentarian has ruled. Our situation is quite different.

Under the resolution that created this committee, the Senate conferred upon the committee the right to make this report or any other report. In the dialog that took place at the time of the debate, that was made very clear.

Let me quote. Mr. BAKER said:

If there appears to be conduct by any agency of the United States Government that appears to be improper or exceeds its jurisdiction that would not be limited by paragraph 2 of this amendment.

Speaking to an amendment of the resolution which was adopted.

Mr. STENNIS replied:

This does not put a limitation on the committee. It requires the committee to proceed under rules, regulations and procedures, but these things are still left in the hands of the committee.

Now, this committee—and we researched it carefully—could have issued this report without ever coming back to the Senate because the Senate had given us that power. But we chose to come back to the Senate so that Senators might first know what was in the report,

not to offer it up here for a vote. Of course, the Senate could, if it now chose to do so, enjoin the committee from issuing the report.

That is our situation and, if we go with the suggestion of the Senator from Michigan, we change the whole meaning of this rule. From now on we establish a precedent which will require all committees, under similar circumstances, to come back to the Senate and obtain affirmative consent if there is anything in those reports that is derived from any material that the executive branch has classified.

That is the reason I object so strenuously.

Mr. BUCKLEY. Will the Senator yield?

Mr. TOWER addressed the Chair.

Mr. JAVITS addressed the Chair.

Mr. CHURCH. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator has the floor.

Mr. CHURCH. Do I have the floor?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Just a minute. I recognize the Senator from Texas (Mr. Tower).

Mr. TOWER. Mr. President, is there a consent request pending, did the distinguished whip couch his proposal in terms of a consent request?

The PRESIDING OFFICER. On a motion to be made that we vote at 1 o'clock.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Chair now is going to ask for an objection.

Mr. CHURCH. Mr. President, I have an objection to this request unless it is phrased differently.

In order to preserve the precedents of the Senate and in order not to make a bad mistake that would do grave injury to committees in the future and greatly exalt executive power over the Congress, that motion must be made in a different form.

Mr. GRIFFIN. No.

Mr. CHURCH. The motion must be made that the Senate reject the report or enjoin the committee from issuing it; otherwise we change the rules of the Senate and we set a precedent that we cannot live with in the future.

I would have no objection to that, but let us not play around with rules of the Senate that will impose limitations, not only upon committees, but enhance executive power over the right of Senate committees to deal with classified information in the future.

Mr. MANSFIELD. Will the Senator yield?

Mr. CHURCH. Yes.

Mr. MANSFIELD. The Senator has advanced a reasonable proposition. The Committee on Intelligence did not have to come back and make a report to the Senate. What this committee is doing, it is doing on its own initiative, no requirement.

The chairman and the ranking minority member have met with the joint leaders from time to time to discuss this possibility and we encouraged them to report to the Senate.

But what I want to emphasize is that they were not required to. This was an action taken by the chairman and the

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

November 20, 1975

CONGRESSIONAL RECORD—SENATE

S 20641

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

vice chairman and concurred in by the rest of the committee. I hope we will keep that factor in mind and not try to submerge what this committee has done by taking a rule out of the procedure book and saying that this applies to what this committee has done, because, as the Senator from Minnesota has said, it would apply to the Armed Services Committee, it would apply to the Foreign Relations Committee, it would apply to the Government Operations Committee, it would apply to all sensitive appropriations subcommittees.

I want Senators to think this matter through carefully because all of us, no matter what committee we are on, all of us are going to be affected if we follow through what the distinguished assistant minority leader had in mind and has indicated he might propose at this time.

Several Senators addressed the Chair. The PRESIDING OFFICER. Who yields time?

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I have no desire to participate in this debate, but I feel I must because I think the Senate is missing a number of critical facts.

One fact is, Mr. President, that we are now in a very delicate situation with the Presidency. We want more information than probably a Senate has received in history. We have to be responsible for it when we get it.

Second, Mr. President, if this rule does not say what BOB GRIFFIN says it says it should be revised, and I will say why.

The President, the rule admits, has the right to stamp a document as confidential. We have the right to undo it, if the President protests the publication, which he is doing here.

He is the President of the United States. We are the Senate. We are both sovereign.

This is very serious, Mr. President, because in a confrontation between the President and the Senate on this very issue, as we want more than we have ever gotten before, we could lose, and the country could lose.

I believe what JOHN PASTORE has suggested is absolutely right. Without compromising the rule in any way, and not trying to settle this legal dispute on which I have an opinion, Senator CHURCH has an opinion and others, let us vote on this particular proposition. No prejudice, just vote. Whatever words we can invent, and maybe I can invent some.

Mr. SYMINGTON. The vote should be an appeal against what the Parliamentarian says. I do not think there should be any vote, but if there is going to be a vote, it should be a vote against the Parliamentarian, not against the committee.

Mr. JAVITS. If the Senator will forgive me, it is not necessary to decide that question here and now. It is too sticky and I respect Senator Church. Let us just vote some catechism of words, which we can invent in a few minutes, which will not prejudice the rules, just that the Senate says to release.

I think we will have gotten out of this dilemma, and it is a real dilemma.

Several Senators addressed the Chair. Mr. CHURCH. I yield such time as he may require to the distinguished Senator from Minnesota.

Mr. HUMPHREY. When the distinguished Senator from Michigan first brought this to our attention, I tended to agree with him. But I believe if we will read the rule and listen to the mandate which was given to the special committee—

Mr. CHURCH. May I yield 5 minutes to the Senator?

Mr. HUMPHREY (continuing). We will see that the circumstances that prevail now are substantially different than under ordinary circumstances.

No. 1, the special resolution creating this committee called upon the committee to make a report to the Senate; second, to make interim reports if it so desired. That rule, in other words, fulfills the injunction that is in subsection 5 of rule XXXVI, where it says, relating to confidential information, "shall not be disclosed without leave of the Senate."

The Senate already gave to the committee the power to make thorough investigations. It was completely and well understood that that investigation would, by necessity, require confidential and secret information. The committee is not reporting a document of the President. The committee is not reporting confidential instruments of an executive branch. The committee is reporting a committee investigation with conclusions and recommendations based on evidence and information obtained by the committee. That committee report has drawn from secret and confidential information just as the Appropriations Committee draws from it when it has executive officers before it; just as the Senate Foreign Relations Committee draws from executive sessions where confidential and secret information is given to us.

The situation relating to the Foreign Relations Committee on the Sinai agreement was substantially different because we were then releasing the entire actual document, word-for-word, that was stamped "secret."

In this instance, the actual documents are not being released. Excerpts and paraphrased language are being released, interpretation is being made, dialog and testimony are being evaluated. But as I have glanced through this report rather hastily there are no official documents, as such, stamped secret, top secret, confidential, sensitive or classified.

Mr. BROCK. Will the Senator yield?

How can we say that a part of a top secret document is not secret? How do we selectively declassify? I am for release of this material.

Mr. HUMPHREY. We frequently do what we call sanitize top secret material or excerpt or capsulized extended information.

Mr. BROCK. This is not sanitized. These are direct quotations, word for word, one, two, three.

Mr. HUMPHREY. But that is not the full secret document. It is parts of it.

Furthermore, when we passed this resolution, everybody in this body knew exactly what we were doing. We knew we were not going to call in a reporter for the Washington Post. We knew the committee would have to call in the CIA Director. The committee would have to call in people who were in sensitive positions. They were going to have to listen to secret, classified information. On the basis of that information, the committee would present a report. This is required by the language of the Senate Resolution 21.

I fully agree that if we come in here to release full documents that are classified, we would be violating the law relating to classification, unless the Senate, by affirmative action, takes a position to the contrary.

Mr. BROCK. Will the Senator yield further?

Mr. HUMPHREY. Mr. President, I think in a very real sense we gave ourselves the necessary clearance by the original resolution which item 5 under rule XXXVI already requires, namely, that said documents and papers shall be considered as confidential and shall not be disclosed without leave of the Senate. The Senate gave leave to this special committee by the very wording of the resolution creating the committee.

The Senate authorized this committee to use documents, to investigate, to interrogate, to move into classified information, and now it is presenting to the Senate the committee report. Personally, I would like to resolve it by an affirmative vote. I feel like the Senator from Rhode Island. I would like to let the country know what is in this document. I would like to be on record, not because I enjoy reading what is in this document, but because certain conditions now prevail which require official concurrence in the release of the report.

First, this document is out of the public as sure as my name is HUBERT H. HUMPHREY, and it is going to appear in the New York Times and other publications. It is going to happen. It is printed. If we do not know that around here, then we are babes in the woods. We are blessed with a degree of innocence which an unborn child does not have.

Mr. GRIFFIN. Will the Senator from Minnesota yield?

Mr. PASTORE. Will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. PASTORE. I hope I am not being misunderstood. My position is that in view of the letter which was written by the President, all I would suggest, short of a filibuster—because I would not tolerate that anyway—I would say publish the report regardless of what the legalities are. I am not getting into the legalities. All I am saying is in view of the fact that the letter of the President has been published, that he has asked that this document not be made public, my motion would be to compliment the committee for the fine work that they have done and that the report should be published. That is all. I would like to have my name appear on the record.

Mr. HUMPHREY. I thoroughly agree, may I say, with the Senator from Rhode Island. I hope he will make that proposal in any way violate

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

rule XXXVI no matter what kind of interpretation is put on it. We ought to do it in an affirmative manner.

THE PRESIDING OFFICER. The Senator's 5 minutes have expired.

The Senator from Idaho.

Mr. CHURCH. I ask for the attention of the distinguished Senator from Rhode Island.

Mr. PASTORE. Will the Senator yield?

Mr. CHURCH. May I make a suggestion first? If that is worded so that it does not prejudice the rule one way or another, so we do not set bad precedents for the future—

Mr. PASTORE. We do not mention the rule.

Mr. CHURCH. I think we should insert in the unanimous-consent request that it is done without prejudice to the rule and, second, we should insert in the unanimous-consent request that this is the one vote the Senate is going to take, that we are going to take it at a time certain and that we are not opening ourselves up to a whole series of proposed amendments to the report and alterations of the report. We either vote it up or down.

If those conditions are in the unanimous-consent request, then I think we could get together.

Mr. TOWER. Mr. President—

Mr. PASTORE. Will the Senator yield?

Mr. CHURCH. I yield.

Mr. PASTORE. This is it: Whereas, the Senate has heard and received the interim report of the select committee on the matter of the assassinations, be it therefore resolved that the Senate commends the select committee for its work and welcomes its interim report as a significant contribution towards the purpose of the charter, and that it be released.

Mr. CHURCH. I think the wording is beautiful, but I think somewhere there we should say without prejudice to this rule so we do not set a bad precedent for committees in the future in matters of this kind.

Mr. PASTORE. I am not invoking the rule one way or the other.

Mr. TOWER. Mr. President—

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I yield myself such time as I may require. It occurs to me that this matter could be handled by a simple motion. I do not think we need to compliment the committee at all—

Mr. STENNIS. Mr. President, may we have quiet so we can hear?

Mr. TOWER. I feel constrained to propound a motion that would read this way:

I move that the Senate approve the release of the interim report of the select committee, without prejudice to any rights the committee may have under rule XXXVI.

SEVERAL SENATORS. Question! Question!

Mr. CHURCH. Mr. President, I would be prepared to support such a motion, as long as it can be done in connection with a unanimous-consent agreement that if we are going to have a vote on that motion, we will have a vote on it at a time certain.

Mr. TOWER. Not later than 1 o'clock.

Mr. CHURCH. And that we are not going to open the report to another series of motions that could amend or alter it. Give us that protection.

Mr. MANSFIELD. We go out at 1 o'clock. That time is set hard and fast, and if no action is taken by 1 o'clock, then publication of the report goes out. If other action is taken which is deleterious, which is dilatory, which indicates a filibuster or a squeezing of interpretations to get around rule XXXVI, I think we had better be careful.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

I hope we can dispose of this matter with a motion. I abstained, in committee, on the matter of public release of the committee report. I did not vote for public release. But we are where we are, and the fact of the matter is there is no way you can keep this report secret now. No way.

Therefore, if we delay the vote until after the recess, or even until later today or until tomorrow, I do not think it would prevent this report from coming out; because it was generally understood that it would be released, and I think if a vote were taken right now, a majority of the Senate would vote to release it. I see no point in filibustering the issue, and I do not think anyone is trying to filibuster it. I see no point in trying to amend the report, because I think any effort to that end would fail. We worked like hell on this document for a long time, and I think the committee will defend the report against any assault that is made on it.

So I think the Senator from Idaho is correct in insisting that we vote on one issue, but I think, too, that other Senators were right in not wanting to nail down or seal in cement some particular interpretation of rule XXXVI that they happen to disagree with; and I can understand such concern.

I think in matters of this sort, whether the rule requires it or not, the Senate ought to join together in voting to release this information, even though the rule does not require it. So for that purpose, Mr. President, I will put my motion, which is debatable, and urge its adoption.

I move that the Senate approve—

The PRESIDING OFFICER (Mr. Ford). Will the Senator suspend so that other Senators might listen to his motion? The Senate will be in order.

Mr. TOWER. I move that the Senate approve the publication and general dissemination of the interim report of the select committee, without prejudice to the committee's rights under rule XXXVI.

Several Senators addressed the Chair.

Mr. MANSFIELD. Mr. President, I offer the Pastore proposal as a substitute. Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. I yield such time as he may require to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I have no amendment or anything like that, no filibuster or anything. I am concerned about this matter. I totally applaud the committee on the really fine work they have done.

I really do not understand, though, the reasons for pressing the so-called assassination story to the front, and rushing out with the publication of it now.

I want to respond to two things. Time is limited. The Senator from Minnesota made a splendid statement, I thought, but there are two points in here, as brought up by the Senator from Idaho.

There were two former Presidents; both of them have passed on. There was something said there about the way of President Kennedy having some kind of knowledge, or there was an intimation, a shadow cast, about some kind of report. And there was another point about President Eisenhower; the testimony showed that someone thought that President Eisenhower said at a National Security Council meeting, or had indicated to the witness, that the President knew about, at least, these assassination plans.

Mr. President, in such a grave matter, let us not fool ourselves. If that report goes out in its present form—and I think it ought to be modified; if you do not have evidence on a thing, do not mention it—it will be talked about a hundred years from now, that those two men as Chief Executives of our Nation, who were clean as a pin, I think, knew about or talked about or somebody said something about it in the solemnity of this report, and in our deliberations here we approved it.

I commend again the work of the committee, but could we not do something at least to correct that situation, and eliminate that inference and shadow?

Mr. TOWER. I yield 1 minute to the Senator from Nebraska.

Mr. CURTIS. Mr. President, when the President delivered the material to the committee, he delivered it to the Senate. I would like to have the attention of the Parliamentarian. When the President delivered the material to the committee, he delivered it to the Senate.

In section 3 of the resolution, we read:

The Senate hereby empowers the select committee as an agency of the Senate.

Mr. HANSEN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. CURTIS. And then it goes on and recites what powers the committee has as an agency of the Senate.

There is not a lawyer in this Chamber who would dispute the fact that the delivery was a delivery of the material to the Senate. Furthermore, Mr. President, section 5 of the resolution says this:

The select committee shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations as to new congressional legislation it deems necessary or desirable, to the Senate. . . . The select committee may also submit to the Senate such interim reports as it considers appropriate.

The resolution did not authorize the committee to report to anyone but the Senate.

I thank the Chair.

November 20, 1975

CONGRESSIONAL RECORD—SENATE

S 20643

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. I yield to the distinguished Senator from West Virginia. How much time do I have left, Mr. President?

The PRESIDING OFFICER. The Senator has 13 minutes.

Mr. CHURCH. How much time does the Senator require?

Mr. ROBERT C. BYRD. I do not know. Just let me begin, and finish when I can.

Mr. CHURCH. Very well.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator will be in order.

Mr. ROBERT C. BYRD. Mr. President, I do not see where the rule is prejudiced whatsoever by the release of this report. I think it is up to the Senate to vote not to release the report if that be its will.

Mr. HANSEN. We are unable to hear the Senator.

Mr. ROBERT C. BYRD. I say I think it is up to the Senate, if it does not want the report released, to so vote, but I do not think that a release of the report would prejudice the rule in any way whatsoever. I will state the reasons why, and leave it to the Senate to decide if it does not want to release the report.

Reluctantly, I shall not vote against release of the report. I say reluctantly, because the report was made available to us only today. I am somewhat non-plused also by this embargo on the face of the report, but nevertheless that is another matter.

Now, why do I say that the release of this report by the Senate committee would not prejudice the rule? I read the rule:

Whenever, by the request of the Senate or any committee thereof—

So we have the Senate or, in the alternative, any committee thereof—any documents or papers shall be communicated to the Senate by the President

And so on.

If the authors of the rule had intended for the committee to be included they would have said:

Whenever, by the request of the Senate or any committee thereof, any documents or papers shall be communicated to the Senate or any committee thereof.

But they did not say that. They noticeably, and, undoubtedly, we have to assume, intentionally left out the words "or any committee thereof."

So it says:

Whenever, by the request of the Senate or any committee thereof, any documents or papers shall be communicated to the Senate.

These papers were not communicated to the Senate. The papers were communicated to a committee thereof. Consequently, the rule that we are talking about does not cover the actions that were taken in submitting material to a committee.

Materials that are submitted to the Senate from the President have to come in that front door from where they proceed to the desk or they have to be authorized to go over there to the Secretary of the Senate. It takes an authorization by the Senate to

the Secretary. They either have to come in the front door, where an announcement is made, they go to the Secretary. That is when a communication is made to the Senate.

Mr. GRIFFIN. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. No, just in a moment when I have completed.

These communications that went to the committee, are not covered by this precise rule in this particular instance.

Further, my second reason why I say that the rule is not violated—in my judgment, we do not have to be concerned about this rule—rule XXXVI has to do with executive sessions which deal with treaties, nominations, and so on. That is the historic reason and use for rule XXXVI.

We are not discussing a nomination here; we are not discussing a treaty here. Rule XXXVI covers treaties and nominations. We are in closed session today under rule XXXV—a session with closed doors.

Finally, let us take for the sake of argument only that rule XXXVI is involved. The Senate in its action in creating this committee, by its resolution—worded as it was—modified that rule. That is if we wish to assume that rule XXXVI is involved, and I do not for a moment assume that. Here is what the Senate said:

The Select Committee shall make a final report. The Select Committee may submit to the Senate such interim report as it considers appropriate.

The PRESIDING OFFICER. I only wished for order in the Senate so we could hear.

Mr. ROBERT C. BYRD. The select committee shall institute and carry out such rules and procedures as it may deem necessary to prevent: First, the disclosure outside of the select committee of any information relating to the activities of the CIA and, second, the disclosure outside the select committee of any information which would adversely affect the intelligence activities of the CIA.

We know how valid and important legislative history can often be in matters that come before the courts of this country. I shall read a section of the legislative history from the debate on the resolution creating the committee that will substantiate my contention that the Senate in creating this resolution determined—if one wants to assume for a moment, and I do not so assume for the reasons already stated—that rule XXXVI was not to apply—here is the section from the debate.

It would appear—

Senator BAKER said—

on its surface to say that if we stumbled into a matter such as the Chilean situation, the Bay of Pigs or the Lebanon incursion, notwithstanding it might appear to the committee, it might be something that ought to be dealt with in the Congress, we should not disclose it.

Senator BAKER is a member of the committee—

Will the Senator from Mississippi reassure me that that is not the purpose of para-

Mr. STENNIS. No. That is not the purpose of paragraph 2. We tried to wrap it up in such a way as to require rules of procedure in the committee which I understand to be the feeling of the Senator from Tennessee.

Mr. BAKER. If there appears to be conduct by any agency of the United States Government that appears to be improper or exceeds its jurisdiction that will not be limited by paragraph 2 of this amendment.

Mr. STENNIS. This does not put a limitation on the committee. It requires the committee to proceed under rules, regulations, and procedures, but these things are still left in the hands of the committee.

So I say to Senators, even disclosures that may be potentially harmful to the United States of America were to be within the committee's discretion to make, by authority delegated to it by the Senate. It may have been an unwise delegation of authority, but there it is. That is the legislative history; that is the pertinent section of the resolution. That is the pertinent extract from the legislative debate. I say to Senators that the committee is acting within its authority, delegated to it previously by the Senate. If the Senate today wishes to vote down publication of the report—thus relieving the authority previously delegated to the committee—that is quite a different matter. But I say to Senators that the publication of this report will not violate rule XXXVI.

Mr. GRIFFIN. Mr. President, will the Senator from West Virginia yield for 2 minutes?

Mr. PASTORE. Mr. President, will the Senator yield?

Several Senators addressed the Chair.

Mr. PASTORE. Does the Senator see the point we are missing here? The President did not raise rule XXXVI.

Mr. CHURCH. Mr. President, may we have this on the other side's time? Our time is running out. Can we have this on the time of Senator Tower?

Mr. PASTORE. Nobody has given time. I asked a question.

Mr. TOWER. Mr. President, I yield 2 minutes to the Senator from Rhode Island, and then I must yield to people on the other side.

The VICE PRESIDENT. Two minutes are yielded to the Senator from Rhode Island.

Mr. PASTORE. The President did not raise the question as to rule XXXVI. He raised it on the question of public policy.

In view of that letter, I am taking this position, regardless of the legalities, as the right thing for us to do, in view of the letter written by the President, who claims that this will be damaging. We do not think so. The report should be published. It would be more effective and more comfortable for the people of this country if they knew that the Senate took affirmative action, and that is the only reason why I raised the question.

I do not see as reasonable men why we cannot take a vote at 1 p.m., and either vote it out or in.

Mr. MANSFIELD. Make it 12:45.

Mr. PASTORE. 12:45. Any time is all right with me.

Mr. MANSFIELD. Mr. President, will the Senator make a motion?

Mr. TOWNE addressed the Chair.

The VICE PRESIDENT. The Senator

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

Mr. PASTORE. Mr. President, I ask unanimous consent that no later than 1 p.m. we take a vote—

Mr. MANSFIELD. At 12:45.

Mr. PASTORE. At 12:45, no later than 12:45 we take a vote on the motion.

Mr. MANSFIELD. On the Pastore substitute.

Mr. PASTORE. The motion that is pending at the desk now which is the Pastore substitute.

The VICE PRESIDENT. Is there objection?

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

Mr. TOWER. Mr. President, reserving the right to object, it is my understanding that the motion of the Senator from Texas is the pending business.

The VICE PRESIDENT. No; the substitute by the Senator from Rhode Island.

Mr. TOWER. Mr. President, will the clerk state the substitute?

The VICE PRESIDENT. The substitute will be stated.

Mr. MANSFIELD. Read it.

Mr. PERCY addressed the Chair.

Mr. TOWER. Mr. President, will the clerk state the substitute? We do not know what it is.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. Pastore) moves whereas the Senate has heard and received the interim report of the Select Committee on Intelligence Activities on Assassinations, be it resolved, therefore, that the Senate commend the Select Committee for its work and welcomes its interim report as a significant contribution toward the purpose of its charter and that the said report be released to the public without prejudice to rule XXXVI of the Senate.

Mr. CURTIS. Mr. President, I object.

Mr. MANSFIELD. Mr. President, remove the words "without prejudice to rule XXXVI."

Mr. PASTORE. Take it out. They asked me to put it in.

Mr. MANSFIELD. That was not in there. No. Let me see it.

Mr. TOWER addressed the Chair.

Mr. ROBERT C. BYRD. Take them out. Do not put them in.

The VICE PRESIDENT. The Senator from Texas.

Mr. MANSFIELD. The Senator wants that last part deleted.

The VICE PRESIDENT. It is so modified.

Mr. TOWER. Mr. President, might I suggest I do not see why we are splitting hairs insisting on a particular interpretation of the rule, even though the Parliamentarian agrees, the majority disagrees, or whatever, but that seems to be sticking in people's craw. Why do we have to get into it? Why could we not simply say "without prejudice under the rules" and leave it at that?

Mr. ROBERT C. BYRD. We do not have to make that statement. That implies that the rule is contrary to the action by the committee in releasing the report.

Mr. TOWER. Let me tell the distinguished assistant majority leader that he is getting us into a brawl on the rules now, so we are going to hassle on the rules.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. TOWER. I see no point in it. I see no point in getting into a fight on the rules. Let us do that some other time. Let us come back after the recess with a proposed amendment to the rule.

Mr. PASTORE. I ask that it be deleted without prejudice to the rule.

Mr. HUMPHREY. Mr. President, will the Senator from Texas yield?

The VICE PRESIDENT. Is there objection to the last modification?

Mr. TOWER. Mr. President—

Mr. PASTORE. Let us have it read again.

The VICE PRESIDENT. The clerk will reread the substitute.

The legislative clerk read as follows:

Whereas the Senate has heard and received the interim report of its Select Committee on Intelligence Activities on assassinations, Be it therefore resolved that the Senate commends the Select Committee for its work and welcomes its interim report as a significant contribution toward the purpose of its charter and that the said report be released to the public.

Mr. BELLMON. Mr. President, reserving the right to object—

The VICE PRESIDENT. Is there objection to voting at a quarter to 1?

Mr. CASE. Mr. President, reserving the right to object—

Mr. TOWER. Reserving the right to object, Mr. President, I ask the Senator from Rhode Island to say "not later than 1," rather than a quarter to 1.

Mr. MANSFIELD. Mr. President, will the Senator yield? After all, we have some business to attend to today in addition to this. We have the Interior appropriation bill; we have the budget resolution; we have conference reports. Also, the Senate has agreed that the discussion of this matter would occur only between the hours of 9 and 1. Hence, the Senator from Rhode Island asks that the time be 12:45, and in executive session.

The VICE PRESIDENT. The Senator from Texas.

Mr. TOWER. The reason why I ask the Senator from Rhode Island to amend his request is that I have a number of people here who are seeking time, and I want to try to accommodate them. If we run out of gas over here, we can yield back time.

Mr. PASTORE. Make it 1 o'clock.

Mr. MANSFIELD. Not later than 1 o'clock. I ask for the yeas and nays.

Mr. CASE. What is the proposition?

The VICE PRESIDENT. To vote not later than 1 o'clock.

Mr. CASE. On what?

Mr. BELLMON. Mr. President, reserving the right to object—

The VICE PRESIDENT. Not later than 1 o'clock.

Mr. CASE. We have to go out, if we are going to vote, unless we have unanimous consent. We want to stay in closed session until this is disposed of. We would have to do that by unanimous consent, and I object to that until I have spoken.

Mr. MANSFIELD. I just asked for the yeas and nays on the pending amendment.

Mr. CASE. We cannot vote on that in closed session.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I think I am about the only one who has much time left. I will yield it to everyone who wants to speak, if they will indicate to me that they want to speak.

Am I to understand now that the unanimous-consent request has been objected to?

Mr. BELLMON. Yes, I object.

Mr. CASE. I object.

The VICE PRESIDENT. There was an objection.

Mr. MANSFIELD. To what?

The VICE PRESIDENT. To voting at 1 o'clock.

The yeas and nays have been ordered.

Mr. TOWER. Something is going to happen at 1 o'clock, anyway.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. Does someone yield for a parliamentary inquiry?

Mr. TOWER. I yield 3 minutes to the Senator from Michigan.

Mr. GRIFFIN. I thank the Senator.

I think that the argument of my dear colleague from West Virginia, who has made a masterful argument with a very weak case, has to be responded to, even though I am glad we are putting this ruling aside, but I do not think we should let that argument not have a response.

First of all, he is saying that delivery of confidential information by the President to the committee does not constitute delivery to the Senate and that therefore the rule does not apply. With all due respect, that is incredible. It is saying, in effect, that for the President of the United States to deal with committees, such as the Committee on Armed Services, the Committee on Foreign Relations, and other committees, he must be sure that he sends the material to the President of the Senate, and then the rule will apply. I think that is incredible.

What county or municipality rises above the State? The effect of this ruling or the interpretation is that a committee rises above the Senate itself.

Second, he tries to labor hard with the language in the resolution. The Senator from Nebraska already has pointed out that the authority given to the committee was to report to the Senate, not the public. If that report contains classified information, the rule XXXV applies.

The other interesting aspect is section 7:

The Select Committee shall institute and carry out such rules and procedures as it deems necessary to prevent the disclosure outside the Select Committee of information—

Mr. ROBERT C. BYRD. As it deems necessary.

Mr. GRIFFIN. To prevent the disclosure outside. We are not doing that. We are going contrary to the provisions of the resolution.

So I hope we will not decide the question in this situation.

Mr. TOWER. Mr. President, I yield 3 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I trust that my comments will not in any regard detract from my gratitude and admiration for the work of every member of the committee. Certainly, I have long believed in sunshine legislation and opening up the processes of government. As I understand it, too much sunshine sometimes causes cancer.

Sometimes we forget that we are not a pure democracy, that we cannot lay everything out and bare it before the whole world, because it is going to be used by our enemies as a hatchet against us.

We also have to take into account that sometimes, in the conduct of international affairs and our diplomacy and the establishment of policy, we must deal with confidence and in confidentiality. Even in the sunshine legislation, we clearly laid out certain provisions, certain standards, and provided that if they were met, we would close those doors and conduct our business in a confidential manner.

I am deeply concerned about the whole issue of the governability of this Nation. We are making it more and more difficult to govern the Nation.

There is a mood of distrust with the executive branch of Government that permeates through the whole country, and we are adding to it. The executive branch has tried now, in reaching out to the legislative branch, in every conceivable way, to say that the rules of the past are no longer the rules of the future or the present so far as our relationship with the elected representatives of the people is concerned.

They have hared their souls. They have laid everything on the line, under the rules of the game that they thought existed at that time—that it was released in a confidential manner, under the confidence rules of the Senate and that particular committee. Now we seem to be changing those rules. We bordered on it with respect to the Sinai agreement. We were deeply disturbed about that. I think all of us were. But now we have once again a case where we are asked to approve something as a fait accompli, when we are told it cannot be kept secret, anyway. I think it could be kept secret, if we voted it, and we can release a sanitized version that would reach reasonable standards between the executive and legislative branches.

I hope we do not hand a hatchet to the enemy. If we are asked to vote on this, I cannot possibly vote to release this document, when I have not read it, and no one other than the committee members has read it. We do not know what is in it. All we know is that we have a solemn letter from the President of the United States, as a former Member of Congress, urging us, with all the candor he has exercised—and no President has dealt with Congress with greater candor than he has—that it would be against the national interest to release this report, which we have not yet read.

Therefore, if there is a resolution to vote on whether or not to put it out, even

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0
be difficult, I will have to vote against that resolution. I cannot assume the responsibility, against the judgment of the President of the United States, without knowledge of what is in this report.

Mr. TOWER. Mr. President, I yield 3 minutes to the Senator from New York.

Mr. BUCKLEY. I thank the Senator from Texas.

First of all, I just want to say that I cannot see why the elementary distinction cannot be made between the right of a committee to have access to confidential documents in order to derive conclusions which are incorporated in a report and a disclosure or a compromise on the confidential information itself.

I should like to address myself now to what was talked about by the Senator from Illinois.

Frankly, I have been appalled, totally appalled and disturbed, by the fact that we seem to be presented with a fait accompli. The distinguished Senator from Minnesota (Mr. MONDALE) and the distinguished majority leader have told us that we have to snap to because we have no choice, that it will be out in the streets. If we in fact have no control over the dissemination of information such as this, which none of us has had a chance to analyze, to judge independently, then something is incredibly wrong with our institutions.

If the gentlemen who say we cannot control the dissemination of this information are stating that the Senator and officers of the Senate cannot be trusted to keep their mouths shut or to honor their obligations, then I suggest that we consider seriously applying section 4 of rule XXXVI, which says:

Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer, to dismissal.

We sort of make a game of the fact that any time we close these doors, within 2 minutes, the Washington Post will have an accurate verbatim copy of what goes on. I think this is disgraceful. I think it is something that we should be ashamed of, and I hope that this body has the guts to press for the identification of anyone who leaks any information out of this proceeding or any future proceeding, and has the further guts to institute proceedings for expulsion.

I have not made up my mind how I am going to vote on this. If I vote to approve its dissemination because I think it is a fait accompli, it will be done under protest. However, I shall probably be joining the Senator from Illinois.

Mr. CHURCH. Mr. President, first, we hear that the Senate ought to vote because that is the proper way to go. Then we hear that the Senate ought not to vote because it has not had a chance to fully consider the report. These are the very reasons why the committee did this on its responsibility. The rules are clear that we had the right. We did not come here to ask for a vote. We came here to explain what was in the report that we had already voted to make public.

I am not here asking for a vote, either. I am here only to uphold the rules of the

prerogatives of the committee. Therefore, I cannot accept the argument that we are forcing Senators to vote without full knowledge of what is in the report, because nobody on the committee came here for that purpose this morning.

Mr. CURTIS. Will the Senator yield for a question?

Mr. CHURCH. I have only 1 minute left.

Mr. TOWER. Mr. President, I yield 3 minutes to the Senator from New Jersey.

Mr. CASE. Mr. President, this is not the kind of thing we ought to try to answer by reference to specific language in a rule. This is a matter of broad public policy and relations between the executive and the legislative branches of Government. I think that JOHN PASTORE, with his usual good gut reaction, hit the right note when he said that no matter what the rule might say in ordinary circumstances, no matter what the language of the authorization might be construed to permit, we, in the light of the President's very clear statement that this is a serious matter, affecting our public relations, ought to take it with equal seriousness and treat it as a matter for decision by the whole Senate.

I think, as a matter of fact, that in order to preserve our right as a body to declassify material sent up under the stamp of confidentiality, we should do it in all cases. I think we have to insist that, ultimately, the Senate may decide what to release to the public. I think we ought to be very, very slow in having this kind of thing done by any action less than full action by the whole Senate, and that, in this instance, it is particularly important.

I do not accept the suggestion that FRANK has made that, because some people do not want to release it at all, or some people do not want to release it until they have read it, the committee has to take this kind of action. I think the committee has done a superb job. I agree fully with the report. I, myself, have read enough of it to satisfy myself that I can answer intelligently the question, Should it be published or not? And I am prepared to do it.

But I think we ought not to—"the letter killeth and the spirit giveth." That is the thing we ought to do here. We ought to act as a body approving the publication and not try to do a legislative job of deciding whether this is going to add so many cubits to this particular precedent for committee authority or whatnot. This is a matter which, because of its own nature as we all understand it now, ought to be handled by the full Senate, without prejudice to any other action by any other committee in any other circumstance.

Mr. TOWER. I yield 2 minutes to the Senator from Oklahoma.

Mr. BELLMON. I thank the distinguished Senator.

Mr. President, so far as I know, no Member of the Senate had seen this report until the hour of 9 o'clock this morning. There are 346 pages. I have not had a chance to read even one page, so far.

I am one of those who favors sunshine

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

legislation. I was Governor of a State that has a sunshine law and I know it works; I am in favor of it. But I think it is totally unfair to ask Senators who have not read a report like this to vote for or against it.

I want simply to say that, as one Member of the Senate, I am going to object to any unanimous-consent request to vote on this matter until at least we have had a chance to know what we are voting on.

Mr. HARRY F. BYRD, JR. Mr. President, will somebody yield me 2 minutes?

Mr. TOWER. I yield to the Senator from Wyoming 1 minute.

Mr. HANSEN. Mr. President, I speak in response to the observations made by the Senator from Nebraska in calling attention to what rule XXXVI said, as commented upon by the distinguished majority whip. As I recall what the Senator from West Virginia said, it was essentially that this confidential information was not released to the Senate, it was released to a committee of the Senate. I make the point, Mr. President, that every committee of the Senate is a creature of the Senate. They can be established and they can be abolished. It seems to me to beg the question to try to argue that it is not being handed to the Senate when it is handed to a committee of the Senate. When a witness before a committee of the Senate refuses to testify, the action is not to hold him in contempt of that particular committee; he is held in contempt of the Senate.

I must say that, though I nearly always agree with the logic of the majority whip, in this instance, I think it misses the point.

Mr. ROBERT C. BYRD. Mr. President, in the abstract, the Senator is right; committees are the creatures of the Senate. But we are talking about the rule and how it specifically does not apply under this particular circumstance.

Mr. HANSEN. It was precisely that point I was addressing. I think the Senator from Nebraska laid it clearly on the line. This material was made available to the Senate. The report is made to the Senate, and nobody else has any right to it until the Senate says, we will release it.

Mr. TOWER. Mr. President, I yield 2 minutes to the Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from Texas.

As I understand it, Mr. President, we are going to vote, if we vote at all, on the Pastore motion or resolution first. I would favor the "Whereas" portion of the Pastore resolution in which the committee is commended—and I commend the committee for its dedication, its hard work, its sense of duty, and the fine investigation that it has done.

The second phase of it would impel me to vote against the whole resolution; that is, on release of this very sensitive information. So I am going to have to vote against the Pastore resolution and, either way that goes, I would also vote against the Tower resolution,

which also calls for a release of this report.

The committee has done a great job, but it ought to keep a great deal of this information within its breast. I think that therein lies the fault of the report. I do not feel that much of this information should be released. But as far as commending the committee for its fine work, I am all for that and I want to extend my commendation, for what little it may be worth, to the committee for the great job that it has done.

Now, on the matter of discretion, on the matter of the exercise of discretion, in the release of sensitive information, well, I cannot say so much. If they had left off with investigation and not so much report I think we would be much better off. I oppose releasing the confidential and sensitive information contained in this report.

Mr. HUMPHREY. Mr. President, will the Senator from Texas yield me 1 minute to offer a proposal?

Mr. TOWER. I would be delighted to yield to the Senator in just a moment, but I—

Mr. HUMPHREY. A conciliatory proposal, may I say, that will help us.

Mr. TOWER. May I yield to other Senators and then I will put the Senator's name on the list.

I yield 1 minute to the Senator from Arkansas.

Mr. McCLELLAN. Mr. President, may I have the attention of the distinguished chairman of the committee?

Mr. CHURCH. Yes, indeed, if he may have it on Senator Tower's time.

Mr. TOWER. Yes.

Mr. McCLELLAN. Do I understand the committee is not asking for the Senate to vote on the release of this report?

Mr. CHURCH. That is correct. The Senate committee came here, having voted to release it on its own authority and responsibility. The purpose of this meeting was to inform Senators first what the committee's findings were.

Mr. THURMOND. We cannot hear the Senator.

Mr. CHURCH. In response to the Senator's request, I said the committee did not bring the report here for the purpose of imposing an obligation on the Senate to vote on it one way or another. It is the committee, on its own responsibility and on the authority that had been delegated to it, which voted first to approve the report and, second, to make it public. We came here, in deference to the Senate, so Senators might first know what the findings of the committee were.

Mr. McCLELLAN. Mr. President, if the Senator will yield further, this report we are asked to vote to release contains about 346 pages, and I discovered—

Mr. CHURCH. That is precisely why we did not come here to ask the Senate to vote on it.

Mr. McCLELLAN. That is why I am asking for information. We have had no time, as the distinguished Senator from Illinois pointed out, I have had no time, to read it. I do not know what is in it. I might vote to release it all if I had some opportunity to be familiar with the re-

port. But I am reluctant to vote to release something as sensitive as this is without knowing what it contains. Therefore, I may have to vote "Present."

The VICE PRESIDENT. The Senator's time has expired.

Mr. TOWER. I yield 1 minute to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I feel one would need to go through many pages of the CONGRESSIONAL RECORD over many years to find 11 more excellent speeches than were made this morning by the 11 members of this committee. Each speech was concise, restrained, thoughtful.

In regard to the situation we find ourselves in now, I think the Senator from Arkansas has raised an important point. As I understand it, as I read the rules of procedure of the committee itself, adopted April 9, 1975, and amended September 23, 1975, on page 17 it says this, beginning on line 1:

"The Select Committee shall make a final report to the Senate. The Select Committee may also submit to the Senate such interim reports as it deems appropriate."

It seems to me that report should have been submitted to the Senate before any effort was made to release it to the public. I probably will vote to release it to the public because, as a practical matter, I feel rather sure the reports are in the hands of the news media, and that probably stories have already been written based on the report. But I think we are faced with a rather unfortunate situation because I hesitate to vote to release a report of 350 pages without having an opportunity to read it.

Mr. TOWER. I yield 2 minutes to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I make this very practical suggestion: In light of the persuasive suggestions made on both sides of this issue.

"We have heard many legal arguments; we are not prepared to judge. I offer this proposal—the Senate, as provided in Senate Resolution 21, has received the report of the committee. The Senate commends the committee on its interim report and concurs in the release of the report of the committee."

My motion or, should I say suggestion gets the Senate not on record in terms of all of the provision of the report or all of the legalities or technicalities, but it does at least follow the procedure outlined in the resolution; namely, this committee is an agent of the Senate, the committee was called to report to the Senate. The Senate takes note that it has received the report, commends the committee, and concurs in its release.

Mr. PASTORE. That is what I did.

Mr. HUMPHREY. But, may I say most respectfully, the other one said that we supported it.

Mr. PASTORE. No.

Mr. HUMPHREY. I think that by the word "concur" in the release we find ourselves not in the position of either dotting every "i" or crossing every "t" or supporting particular material or even having to make judgment on rule XXXVI and its reference to the language

of the report. We would be acknowledging the report and commending the committee, and expressing our concurrence in the publication and dissemination of a very important public document. This, in fact, is what Senate Resolution 21 provides when it calls upon the committee to report to the Senate.

May I say I believe there has been argument here on that rule today which needs a great deal of clarification and, in fact, in my own instance I am convinced there was classified material in the report, which causes me doubt as to some of my own argument.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. ROBERT C. BYRD. The Senator is asking the same thing the Senator from Rhode Island is asking for except saying that it comes within the provisions of the original resolution which, I think, is good.

Mr. HUMPHREY. Yes.

I send this to the desk. I do not know if it is in order. I give it to Senator Pastore. He has taken the lead.

Mr. PASTORE. Mr. President, I ask that mine be modified. I think it is the same thing.

Mr. HUMPHREY. Let us do that.

Mr. PASTORE. I ask that my amendment be modified.

The VICE PRESIDENT. Without objection, the pending motion will be so modified.

Mr. SYMINGTON. Parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. SYMINGTON. Do we not have to have unanimous consent?

The VICE PRESIDENT. The yeas and nays have been ordered. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, reserving the right to object, is there a motion before the Senate?

The VICE PRESIDENT. The clerk will read the modification.

The legislative clerk read as follows:

The Senate, as provided in Senate Resolution 21, has received the report of the committee. The Senate commends the committee on its report and concurs in the release of the report of the committee.

Mr. BELLMON. Is the motion subject to debate?

The VICE PRESIDENT. It is debatable. It is a unanimous-consent request.

Mr. CHILES. Reserving the right to object—

The VICE PRESIDENT. On whose time?

Mr. TOWER. Mr. President, I have not yielded the floor.

Mr. CHILES. I object.

The VICE PRESIDENT. Is there objection to the unanimous-consent?

Mr. CHILES. I object.

The VICE PRESIDENT. Objection is heard.

Mr. TOWER. Then the original motion of the Senator from Rhode Island is the pending business, is that not correct?

The VICE PRESIDENT. That is correct.

Mr. TOWER. Mr. President, I will yield 2 minutes to the Senator from Tennessee and then I am going to yield back my time.

Mr. BAKER. Mr. President, I only want to say just this: I have the advantage over all 10 of my colleagues in the Senate in that I have been intimately involved in developing the information on which this report is written and, in fact, in the preparation of the report itself.

I am familiar with all 346 pages of it, including those 43 that are my separate views in the appendix attached to it.

I understand your concern about voting to release this report before you have read it, but I commend it to you.

I agree with the Senator from Rhode Island, the Senator from New York, and others who have expressed concern that we are about to do something I think we do not intend to do, and that is to basically alter and change the relationship between the Senate and the executive department with respect to declassification of documents. I agree we need not fight that battle here, as the Senator from New Jersey pointed out.

I simply want to say it is the position of the Senator from Tennessee that this report should be released, that we should not deal with the precedents involved.

Mr. HANSEN. Mr. President, may we have order?

Mr. BAKER. May I ask one question: It was my understanding that the Chair stated the position of the Parliamentarian on this issue relating to rule XXXVI. It was not my recollection that the Chair ruled in that manner, and I propound now a parliamentary inquiry as to whether or not the Chair has ruled in accordance with the recommendation of the Parliamentarian on that point.

The VICE PRESIDENT. The Chair has stated his opinion on the advice of the Parliamentarian, in response to a parliamentary inquiry.

Mr. BAKER. Mr. President, I really do not wish to disagree unduly with the Parliamentarian, whom I respect, but that is not the way I recall the record, and I will not debate the matter here except to reserve my rights with respect to that as we read the written record on the point.

It is my contention that the Chair has not ruled in accordance with the recommendation of the Parliamentarian.

The VICE PRESIDENT. Who yields time now?

Mr. TOWER. Mr. President, if the chairman is prepared to yield back the remainder of this time I am prepared to yield back mine.

Mr. CHURCH. I yield back the remainder of my time.

Mr. TOWER. I yield back the remainder of my time.

STATEMENT SUBMITTED BY MR. TAFT

Mr. TAFT. Mr. President, I share in the additional views expressed in the report by Senator GOLDWATER and on the floor by the Senator from Illinois (Mr. PEACOCK) as to the danger of releasing this report.

The President's warning that the report will do grievous damage must be

taken seriously. It seems certain that, as he says, it "would likely be exploited by foreign nations and groups hostile to the United States in a manner designed to do maximum damage to the reputation and foreign policy of the United States. It would seriously impair our ability to exercise a positive leading role in world affairs."

The likelihood is that the report will leak if it is not authorized to be published and much of the damage will be done, but that does not mean we should endorse or legitimize its publication. I shall not join in compounding the error of releasing the report.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 83 (leg.)]

Allen	Garn	Muskie
Baker	Glenn	Nelson
Bartlett	Goldwater	Nunn
Beall	Griffin	Packwood
Bellmon	Hansen	Pastore
Brock	Hart, Gary	Pearson
Buckley	Hart, Philip A.	Pell
Bumpers	Hartke	Percy
Burdick	Hatfield	Randolph
Byrd	Hathaway	Ribicoff
Harry F., Jr.	Helms	Roth
Byrd, Robert C.	Hollings	Schweiker
Cannon	Hruska	Scott, Hugh
Case	Huddleston	Sparkman
Chiles	Humphrey	Stefford
Church	Inouye	Stennis
Clark	Jackson	Stevens
Cranston	Javits	Stone
Culver	Leahy	Symington
Curtis	Magnuson	Taft
Dole	Mansfield	Talmadge
Domenici	Mathias	Thurmond
Durkin	McClellan	Tower
Eagleton	McClure	Tunney
Eastland	McGee	Wicker
Fannin	Mondale	Young
Fong	Montoya	
Ford	Morgan	

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. ABRAHAM), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BROSIE), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. MERCER), the Senator from Utah (Mr. MOSS), the Senator from Wisconsin (Mr. PROSSER), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nevada (Mr. LAXALT), and the Senator from Virginia (Mr. WILLIAM L. SCOTT) are necessarily absent.

LEGISLATIVE SESSION

(At 12:51 p.m. the doors of the Chamber were opened.)

The VICE PRESIDENT. A quorum is present.

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

INTELLIGENCE ACTIVITIES

Mr. ROBERT C. BYRD, Mr. President, I move that the Senate go back into open session.

The VICE PRESIDENT. The question is on the motion—

Mr. ROBERT C. BYRD. The motion is not debatable.

The VICE PRESIDENT. The Senator is correct. (Putting the question.)

The motion was agreed to.

Mr. TOWER, Mr. President—

The VICE PRESIDENT. The Senator from Texas.

Mr. TOWER, Mr. President, obviously a number of people have decided that they do not want to vote on this issue. I am distressed and sorry that Members of the Senate have arrived at that notion.

Mr. ROBERT C. BYRD. Is the Senate now in open session?

The VICE PRESIDENT. The Senate is now in open session.

Mr. TOWER. Therefore, Mr. President, since the Senate has not voted, I want now to publicly disassociate myself from any public release of this report.

Mr. MANSFIELD. Mr. President, I believe it ought to be kept in mind that a number of Senators had indicated they did not want to vote on the release of this report because they had not read it, and other Senators indicated they would oppose any unanimous-consent request leading to a vote. I think what the select special committee has done is to fulfill its responsibilities. It has reported to the Senate an interim report, and I do not believe there is any apology due anyone for any action taken or not taken over the previous 4 hours.

I commend the chairman and the ranking minority member, and I find no fault but only approbation for what the committee has done.

Mr. HUGH SCOTT. Will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HUGH SCOTT, Mr. President, I was perfectly prepared to vote to release the report. I would have contended that we should have inserted some line indicating that we had not had time to read it. Had we had a resolution saying that the report shall be made, that the Senate obviously has not had time to read it but that it does have high regard and great confidence in the committee, I could have then gladly accepted it.

Several Senators addressed the Chair.

Mr. JAVITS, Mr. President, may we have order in the Senate so Members can be heard?

The VICE PRESIDENT. There will be order in the Senate.

Mr. MANSFIELD. Mr. President, regular order.

CONGRESSIONAL BUDGET FOR U.S. GOVERNMENT, 1976

The VICE PRESIDENT. Under the previous order, the Senate will now resume consideration of Senate Concurrent Resolution 76, which the clerk will state.

The assistant legislative clerk read as follows:

A Senate concurrent resolution (S. Con. Res. 76) revising the Congressional Budget

for the United States Government for the fiscal year 1976, directing certain reconciliation action, and providing for the transition quarter.

The Senate proceeded to consider the concurrent resolution.

Mr. McCLELLAN, Mr. President, let us have order.

The VICE PRESIDENT. There will be order in the Senate, please.

The Senator from New York.

INTELLIGENCE ACTIVITIES

Mr. JAVITS. I ask recognition to make a unanimous-consent request, Mr. President, and would ask the leadership to hear me, if it will.

May we have order, Mr. President?

The VICE PRESIDENT. The Senator from New York is asking a question of the leadership.

Mr. JAVITS, Mr. President, may we first have order?

The VICE PRESIDENT. Senators will please take their seats.

Mr. JAVITS, Mr. President, Senators have the right to be heard respecting their position on a report which was discussed in executive session.

May I ask the leadership on the majority and minority side whether, as a courtesy to me and to other Members of the Senate, a time be allotted—it does not have to exceed 30 minutes—to allow Members to express themselves upon this subject as Senator Tower has done in public session.

Mr. MANSFIELD. Of course. At the conclusion of the regular business today, we will set aside 30 minutes.

Mr. JAVITS. May I say to the Senator, as the Senator knows that will not work because the press of the world will carry this story and they are not going to carry it if it comes at 7 tonight. Therefore, Mr. President—

Mr. MANSFIELD. They can carry any story they want. The Senate has agreed to a consideration of a concurrent resolution on the budget, which is of prime importance. The Senate has agreed to take up the Interior appropriations bill. If the Senator can get time from either Senator BELLMON, the ranking member of the Budget Committee, or Senator MUSKIE, the chairman, during that time, that would be fine. As far as I am concerned, I approve the report. I am glad it is going to be publicized. My record is clear and that is that.

Mr. JAVITS, Mr. President—

Several Senators addressed the Chair. The VICE PRESIDENT. The Senator from New York has the floor.

Mr. MANSFIELD. Is the time controlled?

The VICE PRESIDENT. Who yields time?

Mr. MANSFIELD. How much time does the Senator want?

Mr. JAVITS, Mr. President, if I could have 3 minutes of that time—

Mr. MANSFIELD. Three minutes on the resolution?

Mr. JAVITS. That is correct.

Mr. BROCK. Three.

Mr. MANSFIELD. Get Senator BELLMON here. He can give time.

Several Senators addressed the Chair.

Mr. JAVITS, Mr. President—

The VICE PRESIDENT. The Senator from New York has 3 minutes.

Mr. JAVITS, Mr. President, I wish to say only that I approve the publication of the report of the select committee. If there had been a vote, and I believe there should have been—it is a great mistake we have not taken it—I would have voted yea.

Mr. President, I also wish to state that the advice of the Parliamentarian needs to be reviewed. I have very grave doubts about the validity and propriety of the construction of rule XXXVI which the Parliamentarian has suggested to the Chair. I hope that at an appropriate time, without doing it now, that may be reviewed. I do not wish, as one Senator, to be bound by that ruling. On the contrary, should that ruling be made by the Chair, I would consider it my duty to take an appeal to the Senate, to overrule it.

I thank the Chair for its time.

The VICE PRESIDENT. The Chair would like to comment that there was no ruling made—

Mr. JAVITS. May we have order?

The VICE PRESIDENT. The Chair would like to comment that there was no ruling made. There was a comment by the Parliamentarian. I checked because I was not here. He said it was a comment but that no ruling or precedent was set.

Mr. JAVITS. I thank the Chair. That is exactly what I thought.

Several Senators addressed the Chair.

Mr. CURTIS, Mr. President, I have the floor.

Mr. MANSFIELD. No.

Mr. MUSKIE. I yield 1 minute to the distinguished Senator from Nebraska.

Mr. CURTIS, Mr. President, it is my opinion that this report cannot be released without affirmative action by the Senate. The penalty for doing so is very severe. Therefore, Mr. President, I send my copy of the report to the Chair for safekeeping.

Mr. MUSKIE, Mr. President, I think the distinguished majority leader yielded 2 minutes to Senator BROCK.

Mr. BROCK, Mr. President, I would like to associate myself with the remarks of the Senator from New York. I thoroughly disagree with the advisory opinion of the Parliamentarian. It is the most stretched construction I have ever seen in my life.

I think it is utterly inexcusable that this body has refused to come to grips with a fundamental public responsibility. I resent the fact that we were not allowed to vote. I regret it. My own inclination would have been to accept a fait accompli, because we had no choice. The matter is before the public now. But I wanted the right to vote up or down. It is my responsibility under the Constitution to so vote, and I do not like being put in a position where the parliamentary devices of this body are used to prevent Members from having an opportunity to accept and undertake their constitutional responsibility. I regret it very much.

Mr. MUSKIE. I yield 2 minutes to the Senator from New Jersey.

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

Mr. CASE. Mr. President, the committee has done a superb job in this interim report, and I commend the committee and all Members for the way they have handled this difficult and terribly important matter. As I said in executive session, I think the matter of releasing the report should have been decided by the whole Senate. I think this was an important decision for us to make, not because I think that the release of the report will damage the country; I was prepared to vote to release it, and if we had had a chance to do it, I would have so voted. I think the public is entitled to have this information the way it is presented in the report, a very beautifully and carefully written job.

But I think it was most unfortunate for the Senate to acquiesce in a procedure which suggests that a committee of this body has a right to release information given to it or to the Senate—I do not make any great distinction between them; Senate committees are bodies of the Senate—without action by the whole Senate. We should have taken that responsibility, and I think for the future of our relations with the executive and our ability to get confidential information which we must have to do our job, we should insist upon this proposition: The Senate has the right to declassify information, but only by action of the whole Senate.

Mr. MUSKIE. Mr. President, I yield 3 minutes to the Senator from Florida, and then 2 minutes to the Senator from South Carolina.

Mr. MCCLELLAN. Mr. President, let us have order.

The PRESIDING OFFICER (Mr. DUKIN). The Senate will be in order. Senators will take their seats.

Mr. CHILES. Mr. President, I believe the Senate Select Committee on Intelligence has worked long and hard and done an outstanding job. I was impressed with the fact that members of a bipartisan and bi-philosophical committee could reach a unanimous conclusion. I was also impressed with the summary we received, which showed there were plots hatched by the CIA and members of the Government to carry out political assassinations. I think the American people are entitled to that information.

My personal belief would be that it would be better to summarize some of that information than to have tried to detail every bit of it. Not having had the opportunity to read the report and its 346 pages, it certainly would not be something that I would like to say that I concur that everything in that report should be released. I also do not agree with a representation that was made by the Parliamentarian to the effect that every committee can now declassify information just because the confidential information goes to the committee rather than through the doors of the Senate Chamber. I think that is a ruling we could live to regret.

It seems to me that we could get all of the essence of the report necessary to the American people, the summary and the findings and the necessary legislation that is going to be required, without having to go in and publish every

relations or might impede the agents themselves, and that is the concern that I would have. Not having been able to read the 346 pages and at least make up my mind whether that would be true or not certainly would govern me as to whether I would vote for the release of the report.

I think the information should be released, I believe if a vote had occurred, I would have voted against the release of the full report at this time, without having had an opportunity to read it.

Several Senators addressed the Chair.

Mr. MUSKIE. I yield 10 seconds to the Senator from Louisiana for a unanimous-consent request.

Mr. LONG. Mr. President, I ask unanimous consent that Mike Stern of my staff, have the privilege of the floor in connection with this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the chair.

Mr. MUSKIE. Mr. President, my order of recognition was dictated by the majority leader, who yielded this time before I arrived. Senator THURMOND, I believe, is next, and then Senator BAKER.

Mr. THURMOND. Mr. President, I commend the committee for the work they have done on this subject. I wish we had had a vote. I would have voted to release the report. I disagree with the opinion of the Parliamentarian that the committee had the right to release it without coming back to the Senate.

I think rule XXXVI, section 5, is clear that the Senate is the one that would have to release it. I regret that action was not taken by the full Senate today.

Mr. MUSKIE. I yield 2 minutes to the Senator from Tennessee (Mr. BAKER), 1 minute to the Senator from Georgia (Mr. NUNN), and 1 minute to the Senator from Maryland (Mr. MATHIAS), in that order.

Mr. BAKER. Mr. President, I, like the occupant of the chair and others, worked long and hard, and I hope diligently, on this report. I came to this session today fully expecting and intending to vote for its release to the public, if that vote was put.

I am now in a position, regretfully, to say only that I think the Senate has handled this matter in the worst possible way. I do not doubt for 1 second that a majority of the Senate, given an opportunity, would have voted to release the report, and I think that would have been the right decision. But I think to have it released by inaction casts credit on neither the Senate nor the committee, and I regret it.

I would make only one further point, that I believe is already clarified, but, if the Chair will give me his attention and the Parliamentarian will listen for a moment, I want to make sure the record is abundantly clear on this point.

On the question that I raised during the executive session with respect to rule XXXVI, does the ruling of the Vice President, then the occupant of the Chair, that the Parliamentarian's statement in that respect was reflected as an opinion of the Parliamentarian, and not as the ruling of the Chair, mean that the Chair did not rule on that point?

of a parliamentary inquiry. Will the Chair please confirm that understanding for me?

The PRESIDING OFFICER (Mr. GARY HART). Rulings are issued only in response to points of order, and no point of order having been made, there was no official ruling of the Chair.

Mr. BAKER. That is more than I asked for, but let me make sure I have it nailed down. I do not really care about that point. I simply want to know, was there a ruling by the Chair as to rule XXXVI, based on the advice of the Parliamentarian?

The PRESIDING OFFICER. The Chair can only restate the statement it just made: Rulings of the Chair are issued in response to points of order. No point of order having been made, there was no ruling of the Chair.

Mr. BAKER. Do I understand, then, there was not?

The PRESIDING OFFICER. The Chair restates what it just said.

Mr. BAKER. That is the way I interpret it.

Mr. MUSKIE. I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I think the Senate has made a very bad record today in the way this matter has been handled. What has been set as a precedent, whether by ruling of the Chair or otherwise, is that a committee may declassify information without the concurrence of the full Senate.

What I am afraid of is that the executive branch of the Government may very logically draw the conclusion that the only way that classified information can be protected as to a decision by the full Senate is to send that information through that door, rather than directly to committees. So I think we have jeopardized the committees of the Senate in being able to receive, handle, and analyze classified information, and I believe we will come to regret the way we have handled this particular situation this date.

Mr. MUSKIE. I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, the select committee took great care in the submission of this report to reserve the option of the Senate to make a decision, and the Senate has today refused to exercise that option. I think this is a matter for great regret, and I find myself in substantial agreement with the distinguished Senators from Tennessee (Mr. Brock and Mr. BAKER) in the sentiments that they have just expressed.

I do not think that the Senate ought to leave the subject under any delusion that by failing to exercise the option the select committee gave it that it has not taken action.

Mr. BROCK. Right.

Mr. MATHIAS. It has taken action, action that is going to be viewed as precedent. It is going to affect our future decisions, and I think it is a great misfortune because it was not done in a deliberate, careful, and a profitable way.

I only wish to suggest to the Senate that this is a subject to which we are going to have to return so that we do not

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0

have another misfortune of the kind which we have experienced.

Mr. FORD and Mr. McCURE addressed the Chair.

Mr. MUSKIE. Mr. President, I yield to the Senator from Kentucky 1 minute.

Mr. FORD. Mr. President, there have been several inquiries of the Chair as to the ruling on the Parliamentarian's interpretation.

I make a matter of record that I was in the chair at the time the question was put. I related the opinion of the Parliamentarian at the time, but no ruling of the Chair was made. So there has not been a ruling by the Chair on the Parliamentarian's opinion. I was only stating his opinion at that time upon the question of the Chair.

Mr. BAKER. Mr. President, will the Senator from Kentucky yield briefly.

Mr. FORD. Yes.

Mr. BAKER. I thank the Senator from Kentucky for that clarification.

Mr. MUSKIE. The Senator from Idaho.

Mr. McCURE. Mr. President, I do not know whether to do this or not in a formal way, but I suggest that someone might wish to ask unanimous consent of the Senate that no member of the select committee be subject to expulsion under the rule, because, while we made no decision, as a matter of fact we backed away from making a decision as to the effects of the rules of the Senate in regard to the release of classified information. If that rule applies, and if it is applied here, it also subjects every member of that committee who voted for the release of the committee report to expulsion from the Senate.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. McCURE. I am happy to yield.

Mr. BROCK. I think it is appropriate to point out that the members of the committee did not vote to release the material. They voted to bring the matter to the Senate for the Senate's decision, and the Senate copped out because it would not reach a decision. It refused to allow a vote on the matter.

Mr. McCURE. I suspect, if someone were to bring an action asking for expulsion of all 11 members of that committee for a violation of the Senate rules, that there would then be a question of whether or not the committee had released the material or whether some unnamed individuals with or without the authority.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Maine.

Mr. HUDDLESTON addressed the Chair.

Mr. MUSKIE. Mr. President, I am perfectly willing to yield within reason, but there is limited time on the budget resolution. I have been yielding for a minute or 2 minutes. I do not wish to get into a question of a vote for an issue that is extraneous to the budget resolution. I wish to have this time for that purpose.

Mr. McCURE. Mr. President, will the chairman indulge me 1 additional minute?

Mr. MUSKIE. One additional minute.

Mr. McCURE. I thank the chairman for doing so.

I raise that question because I wish

people to understand what happened here this morning when we took a rule of the Senate and subverted it through parliamentary devices which sometimes in other contexts are known as filibusters in order to avoid the Senate taking a vote on one of the most critical issues that will confront us with respect to the release of classified information.

I agree with the various Senators who have expressed the opinion that we took very hasty and ill-advised action.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield a minute to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. First, I ask if the Senator from Maine at the appropriate time will yield me 12 minutes from the concurrent resolution.

Mr. MUSKIE. By all means, yes.

ORDER FOR YEAS AND NAYS ON SENATE CONCURRENT RESOLUTION 76

Mr. HARRY F. BYRD, JR. Second, I ask for the yeas and nays on the concurrent resolution.

Mr. McCURE. What is it?

Mr. MUSKIE. He asked for the yeas and nays on the budget resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUDDLESTON. Mr. President, will the Senator yield 2 minutes?

Mr. MUSKIE. I yield to the Senator from Kentucky 2 minutes.

Mr. HUDDLESTON. I thank the distinguished Senator from Maine.

First, I wish to correct an assertion made by the distinguished Senator from Tennessee. I am sure he did not make it intentionally. But as a member of the Select Committee, let me state emphatically that the Select Committee did vote to release the assassination report. It was never contemplated by the Select Committee that that report would be brought before the Senate for the purpose of securing concurrence of the Senate or approval of the Senate for release by the Senate in order to fulfill what the committee saw was its responsibility.

The whole purpose of coming before the Senate by the committee was simply to inform Senators so they would not read about the report in the press before they had any knowledge what it is all about. The unfortunate thing about this morning, of course, is that we spent nearly the entire time debating the question as to whether or not the Senate ought to vote or not vote on releasing the report. Members came here prepared, each one of us assigned a particular segment of the report, to answer the most detailed and specific questions about this report that Senators may have had. We went through the entire morning without ever having an opportunity to answer one single question about the substance of the report. That is unfortunate. Senators will now have an opportunity to read it in the press and read their interpretation of it and make whatever assumptions that they care to make.

But it is unfortunate that the Senate today got hung up on these questions which were not even pertinent to the whole session today.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Maine.

Mr. BELLMON. Mr. President, will the Senator from Maine yield to me for 1 minute?

Mr. MUSKIE. I yield to my good friend from Oklahoma.

Mr. BELLMON. Mr. President, I thank the distinguished Senator from Kentucky for the statement he just made. It very much enlightened the Senate, I believe, on what the intentions of the select committee were this morning. I believe if it were better understood the great deal of debate that occurred would not have occurred, and we would have been able to get from the members of the committee the enlightenments they were prepared to give us.

I feel very strongly it has been a mistake to ask those of us in the Senate who never had an opportunity to see the report to pass judgment on it as we were asked to do.

I thank the Senator from Kentucky for enlightening us as he just has.

Mr. FORD. I thank the Senator from Oklahoma.

The PRESIDING OFFICER. Who yields time?

CONGRESSIONAL BUDGET FOR U.S. GOVERNMENT, 1976

The Senate continued with the consideration of the concurrent resolution (S. Con. Res. 76) revising the congressional budget for the U.S. Government for the fiscal year 1976, directing certain reconciliation action, and providing for the transition quarter.

Mr. MUSKIE. Mr. President, if I may yield myself a minute or two, I understand that Senator KENNEDY is on his way to the Chamber to offer his amendment which, as I understand it, is the only amendment that is likely to be offered to the budget resolution.

I take this time to express my appreciation to the staff of the Committee on the Budget. I pay special tribute to the Staff Director, Douglas Bennet, and Chief Counsel, John McEvoy, who were the first to be appointed to the staff, and who had to bring it through the difficult organization and recruiting period. They have assembled, I think, one of the outstanding professional staffs of any committee on the Hill. To them I give my appreciation and my personal gratitude.

Then beyond them I thank the whole staff of the Committee on the Budget, not only on my own behalf or for the committee, but also on behalf of the entire Senate. Exploring new territory is hard work. There are false starts, and dead ends. There are imagined dangers that do not occur and unimagined ones that do, and the destination is never entirely clear.

For over a year now, the staff of the Senate Committee on the Budget, every member of it, has been under enormous pressure to make this first year work. Their performance has been heroic. Their success can be measured by the sense I feel in this Chamber today that Congress really has begun to take hold of America's fiscal priorities and national

Approved For Release 2003/04/29 : CIA-RDP84-00780R006700090002-0